2009-2010

HOUSE
STATE
GOVERNMENT/STATE
PERSONNEL

MINUTES

House Committee on State Government/State Personnel

2009-2010 Session

Book 1 of 3

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009-2010 Biennium

Leg. Day: H-151/S-148

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
008	Pierce	PROHIBIT CELL PHONES IN PRISON.	*H	Re-ref Com On Appropriations/ Base Budget	02-12-09	02-25-09
H0062=	Justus	STATE HEALTH PLAN - HENDERSONVILLE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	02-12-09	
H0086=	Weiss	ATV & MOTORCYCLES OFF-ROAD FUND.	*H	Re-ref Com On Appropriations	02-12-09	04-22-09
H0089=	Haire	SMOKY MOUNTAINS NATIONAL PARK PLATE CHANGES.	H	Ref To Com On Appropriations/ Base Budget	02-12-09	02-24-09
H0115=	McLawhorn	JOINT DV COMMITTEE/ RECOMMENDATIONS.	*HR	Ch. SL 2009-342	02-11-09	03-25-09
H0174	Adams	BD OF GOVERNORS STUDENT MAY VOTE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Education	02-18-09	
$ H0190	**Stam**	**MEDICAID IMPROPER CLAIMS SOFTWARE/FUNDS.**	**H**	**Re-ref Com On Appropriations**	**02-18-09**	**03-11-09**
H0201=	Spear	ADD DIVISION OF LESS TO CCPS.	*HR	Ch. SL 2009-81	02-18-09	03-04-09
H0208	Harrison	SPAY/NEUTER PROGRAM TRANSFER/FUNDS.	*H	Re-ref Com On Finance	02-18-09	05-27-10
H0210	Goforth	DISAPPROVE GENERAL CONTRACTORS BOARD RULE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	02-18-09	
H0213=	Insko	VSL NONFAMILY SICK LEAVE DONATIONS.	*HR	Ch. SL 2010-139	02-19-09	05-04-09
H0213=	Insko	VSL NONFAMILY SICK LEAVE DONATIONS.	*HR	Ch. SL 2010-139	07-01-10	07-06-10
H0214	Insko	STATE EMPLOYEE COMMUNITY SERVICE DAYS.	*H	Re-ref Com On Appropriations	02-19-09	03-26-09
H0221=	Goodwin	OVERSIGHT OF LICENSING BOARDS.	*HR	Ch. SL 2009-125	02-19-09	03-04-09
H0321=	E. Warren	ZOO AND ZOO FUNDS MODIFICATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Commerce, Small Business, and Entrepreneurship	03-02-09	
H0339	McElraft	TAXPAYER TRANSPARENCY ACT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-02-09	
H0353=	Insko	PEOPLE FIRST.	*H	Re-ref Com On Health	03-02-09	03-11-09
H0377=	Martin	AUTHORIZE EMERGENCY MGMT. CERTIFICATION	*HR	Ch. SL 2009-192	03-25-09	04-08-09

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
		PROG.				
378=	Martin	STATUTORILY ESTABLISH DIVISION OF EMERG. MGMT.	*HR	Ch. SL 2009-397	03-25-09	04-08-09
H0379=	Martin	ALLOWS MUTUAL AID BETWEEN STATE & LOCAL GOV.	HR	Ch. SL 2009-194	04-01-09	04-08-09
H0381=	Martin	EXPAND DIVISION OF EMERGENCY MGMT. AUTHORITY.	*HR	Ch. SL 2009-193	03-04-09	04-01-09
H0405=	Justus	WESTERN JUSTICE ACADEMY FIRING RANGE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-05-09	
H0406=	Justus	WEST. JUST. ACAD./ WILDLIFE RES. FIRING RANGE.	*HR	Ch. SL 2009-449	03-05-09	05-06-09
H0409	Sutton	ANNUAL ARCHAEOLOGY REPORTS.	H	Re-ref Com On State Government/ State Personnel	05-07-09	
H0467=	Tucker	AUDITOR EX OFFICIO DUTIES.	H	Ref to the Com on State Government/ State Personnel, if favorable, Science and Technology	03-09-09	
H0473	Hurley	MAGISTRATE CAN CARRY GUN IN COURTHOUSE.	*HR	Ch. SL 2009-513	03-12-09	03-25-09
543	Tarleton	NO PENALTY FOR COMM. COLL. AUDIT EXCEPTION.	HR	Ch. SL 2009-208	03-30-09	05-06-09
...544	Dollar	ECONOMIC IMPACT/ REGULATORY LEGISLATION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-12-09	
H0555=	Tillis	TRANSPARENCY IN RECOMMENDATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	03-12-09	
H0596	Fisher	ALLOW IN-HOME LIC'D BARBERING.	*HR	Ch. SL 2009-471	03-16-09	04-01-09
H0617	Allen	DISABLED SPORTSMEN/ ATV EXCEPTION.	*H	Pres. To Gov. 7/8/ 2010	05-11-09	05-13-09
H0628	Spear	AQUARIUM SATELLITE AREAS FUNDING.	*HR	Ch. SL 2009-14	03-18-09	03-25-09
H0649=	Fisher	TAX INFO DISCLOSURE TO STATE TREASURER.	H	Held by Senate	03-18-09	05-04-09
H0683	Crawford	PERMIT EXTENSIONS.	*H	Pres. To Gov. 7/ 10/2010	03-19-09	04-01-09
H0696	Burris-Floyd	MOTORCYCLE AWARENESS MONTH.	H	Re-ref Com On Appropriations/ Base Budget	03-23-09	04-01-09
H0708	Rapp	FURLOUGH OF STATE EMPLOYEES.	H	Ref to the Com on State Government/	03-23-09	

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				State Personnel, if favorable, Appropriations		
H0723	Tucker	ELECTRONIC REPORTING OF ABANDONED PROPERTY.-AB	HR	Ch. SL 2009-177	03-23-09	04-08-09
H0724	Cleveland	OPEN RECORDS ATTORNEYS' FEES.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary I	03-23-09	
H0735	Tarleton	BLDG. CODE/HIGH SCHOOLERS AT COMM. COLL.	*HR	Ch. SL 2009-206	04-16-09	05-04-09
H0746=	Insko	AMEND PROFESSIONAL COUNSELORS ACT/FEES.	*HR	Ch. SL 2009-367	03-24-09	04-30-09
H0746=	Insko	AMEND PROFESSIONAL COUNSELORS ACT/FEES.	*HR	Ch. SL 2009-367	07-13-09	07-14-09
H0749	K. Alexander	USE OF CISTERNS IN CONSTRUCTION/ RENOVATION.	*HR	Ch. SL 2009-243	04-21-09	05-06-09
H0780	Brubaker	BUILDING CODE/EXEMPT EQUESTRIAN ARENAS.	*HR	Ch. SL 2009-245	04-16-09	05-07-09
H0780	Brubaker	BUILDING CODE/EXEMPT EQUESTRIAN ARENAS.	*HR	Ch. SL 2009-245	06-18-09	06-23-09
H0808=	Gulley	COM. COLL. CONST. PROC./DOI CODE ENF. CLARIF.	*HR	Ch. SL 2009-229	04-30-09	05-13-09
H0808=	Gulley	COM. COLL. CONST. PROC./DOI CODE ENF. CLARIF.	*HR	Ch. SL 2009-229	06-11-09	06-17-09
..348	Tillis	MAGISTRATES PROVIDE APPOINTMENT OF COUNSEL.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	03-30-09	
H0859	Guice	AMEND CONCEALED HANDGUN PERMIT LAWS.	*HR	Ch. SL 2010-104	05-07-09	05-13-09
H0876=	Wainwright	PROBATION STUDY.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-31-09	
H0912	Killian	ENCOURAGE USE OF MILITARY VETERAN CONTRACTORS.	*H	Ref To Com On Commerce	04-30-09	05-07-09
H0935	McGee	HSC ON HOMEOWNER ASSOCIATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Rules, Calendar, and Operations of the House	04-01-09	
$ H0947	**Pierce**	**ROOT OUT POVERTY/TASK FORCE FUNDS.**	**H**	**Ref to the Com on State Government/ State Personnel,**	**04-01-09**	

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				if favorable, Appropriations		
...949=	Johnson	REED GOLD MINE REVOLVING FUND.	*H	Re-ref Com On Finance	04-01-09	05-13-09
H0962	Brubaker	SUSPEND SUPERIOR COURT JUDGE ROTATION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary II	04-02-09	
H0972	Tarleton	CREATE UWHARRIE REGIONAL RESOURCES COMM'N.	*H	Pres. To Gov. 7/ 10/2010	04-28-09	05-13-09
H1009	Bell	END DOA SUPERVISION OF LOCAL VETERANS SERVICE.	*HR	Ch. SL 2009-280	05-12-09	05-14-09
H1014	Folwell	ORGAN DONATION MONTH.	H	Ref To Com On Health Care	04-02-09	04-22-09
H1031	Folwell	BLDG. STDS./PRE-K CLASSES IN PUBLIC SCHOOLS.	*HR	Ch. SL 2009-123	05-05-09	05-13-09
H1033	Cole	FIREFIGHTER/EMS PAYROLL DEDUCTION.	H	Serial referral changed from Jud. II to Jud. III	04-06-09	04-07-09
H1033	Cole	FIREFIGHTER/EMS PAYROLL DEDUCTION.	H	Serial referral changed from Jud. II to Jud. III	04-07-09	
H1035	Glazier	PERFORMANCE & PAYMENT BOND MODIFICATION.	*H	Pres. To Gov. 7/9/ 2010	04-06-09	05-13-09
H1046	M. Alexander	CHILD CARE FACILITIES RULES.	*HR	Ch. SL 2009-187	05-06-09	05-13-09
)79	Harrison	ENERGY-EFFICIENT STATE MOTOR VEHICLE FLEET.	*HR	Ch. SL 2009-241	04-27-09	04-29-09
H1082=	Crawford	REPAIR & RENOVATION FUND FORMULA.	H	Re-ref Com On Appropriations	04-06-09	05-13-09
H1088	Braxton	DHHS/PROCUREMENT METHODS.	HR	Ch. SL 2009-184	05-07-09	05-13-09
H1095	R. Warren	LOCAL RETIREMENT SYS./ INCLUDE NCSA.	H	Ref to the Com on State Government/ State Personnel, if favorable, Pensions and Retirement	04-07-09	
H1108	Hill	CLARIFY LICENSE REQ/ OUT OF STATE WEIGHMASTERS.	HR	Ch. SL 2009-87	05-06-09	05-13-09
H1112	Goodwin	AMEND BIRTH REGISTRATION REQUIREMENTS.	*HR	Ch. SL 2009-285	04-07-09	04-29-09
H1115	Gulley	ALLOW ELECTRONIC PAROLE NOTIFICATION.	*HR	Ch. SL 2010-107	04-14-09	05-04-09
H1129	Mobley	CLARIFY SILVER ALERT-ALL AGES.	HR	Ch. SL 2009-143	04-15-09	05-06-09
H1135	Ross	QUI TAM/LIABILITY FOR FALSE CLAIMS.	*HR	Ch. SL 2009-554	04-07-09	06-03-09
H1141	Allen	DOA/EXAMINE OWNERSHIP	H	Re-ref Com On	04-07-09	04-22-09

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		OF STATE LAND.		Appropriations		
142	Braxton	FIRE AND RESCUE PENSION FUND CHANGES.	H	Ref to the Com on State Government/ State Personnel, if favorable, Pensions and Retirement	04-07-09	
H1156	Dockham	ENGLISH ONLY LOTTERY MATERIALS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Ways and Means/ Broadband Connectivity	04-08-09	
H1168	Glazier	TITLE PROTECTION/ SOCIAL WORKERS.	*HR	Ch. SL 2009-88	04-08-09	05-06-09
H1171	Glazier	LAW STUDENT EXTERNS AT GENERAL ASSEMBLY.	*HR	Ch. SL 2009-129	04-08-09	04-22-09
$ H1172	**Owens**	**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE.**	***HR**	**Ch. SL 2009-450**	**04-08-09**	**04-15-09**
H1191=	Blust	PROPERTY FINDERS.	*H	Re-ref Com On Judiciary I	04-08-09	04-29-09
H1202	Harrison	EXPAND MEMBERSHIP/ GEN. STATUTES COMMISSION.	H	Re-ref Com On Appropriations	04-08-09	05-04-09
H1215	Allred	CHANGE DEFN OF INCOME FOR HOMESTEAD EXCLUSION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	04-08-09	
H1221	Folwell	DEVELOP EMPLOYEE BENEFITS STATEMENT.	*HR	Ch. SL 2009-63	04-09-09	04-22-09
H1230=	Gibson	APA RULES: INCREASING COSTS PROHIBITION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Environment and Natural Resources, if favorable, Judiciary I	04-09-09	
H1234	Gibson	FIREARMS ALLOWED IN CERTAIN STATE PARKS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	04-09-09	
H1249	Harrell	HOMEBUILDER PROPERTY TAX DEFERRAL CHANGE	*H	Pres. To Gov. 7/8/ 2010	05-05-09	05-13-09
H1251	Harrell	COLONIAL SPANISH MUSTANG AS STATE HORSE	*HR	Ch. SL 2010-6	05-05-09	05-13-09
H1258	Carney	CREATE GLOBAL ENGAGEMENT COMMISSION.	H	Re-ref Com On Rules, Calendar, and Operations of the House	04-09-09	05-04-09
H1262=	Mackey	EXPAND INTERPRETING	H	Ref to the Com on	04-09-09	

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		SERVICES.		State Government/ State Personnel, if favorable, Appropriations		
H1266	Jones	LAW ENFORCEMENT OFFICER PROTECTION ACT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	04-09-09	
H1271	Goodwin	CLARIFY SOCIAL SERVICES COMMISSION AUTHORITY.	*HR	Ch. SL 2009-188	04-09-09	04-29-09
H1278	Pierce	HIGH UNEMPLOYMENT TRIGGERS STATE RESPONSE.	*H	Re-ref Com On Appropriations	04-09-09	05-07-09
H1287	Harrison	RECYCLE PRODUCTS CONTAINING MERCURY.	*H	Re-ref Com On Appropriations/ Base Budget	04-09-09	05-04-09
H1342	Bordsen	FREE MEDICAL EXAM-VICTIMS OF RAPE/SEX OFFENSES.	*HR	Ch. SL 2009-354	04-09-09	05-06-09
H1357	McCormick	RETIRED PART-TIME LEO/ CONCEALED CARRY PERMIT.	H	Re-ref Com On Judiciary II	04-09-09	05-04-09
H1377	Folwell	SAFE SCHOOLS ACT.	*H	Pres. To Gov. 7/9/ 2010	04-09-09	05-13-09
H1409	Justice	BUILDING CODE EXCLUSION/CERTAIN WIRING.	*HR	Ch. SL 2009-532	05-07-09	05-13-09
410	Justice	BUILDING CODE EXCLUSION/HOT WATER HEATERS.	*H	Ref To Com On Commerce	05-06-09	05-13-09
H1429	Lewis	MORTGAGE GUARANTY INSURER SUNSET EXTENDED	*HR	Ch. SL 2010-40	05-12-09	05-14-09
H1429	Lewis	MORTGAGE GUARANTY INSURER SUNSET EXTENDED	*HR	Ch. SL 2010-40	05-31-10	06-16-10
H1453	Dollar	STATE MAINTENANCE VEHICLES-PARKING CAPITOL.	*HR	Ch. SL 2009-262	04-13-09	05-13-09
H1481	Bryant	ENERGY TO COMMERCE; OEO TO ENERGY.	*HR	Ch. SL 2009-446	04-13-09	05-13-09
H1491	Harrell	ITS/SPA AND EXEMPT POSITION CLARIFICATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	04-13-09	
$ H1496	**Dollar**	**STUDY BEACON HR/ PAYROLL IMPLEMENTATION.**	***H**	**Re-ref Com On Appropriations**	**04-13-09**	**05-04-09**
H1590	Dollar	THE SCHOOL CONSTRUCTION BOND ACT OF 2009.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	05-06-09	

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591	Jones	GA MEMBERS/FULL-TIME LEGISLATIVE ASSISTANTS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-06-09	
H1593	Lewis	LOCAL TAX LIEN/ PRIORITY OVER STATE TAX LIEN.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	05-06-09	
H1618	Bordsen	COMMUNITY-BASED CORRECTIONS FUNDS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-07-09	
H1633	Hall	STUDY SECURITY SERVICES-LEGISLATIVE BLDGS.	*H	Re-ref Com On Appropriations	05-07-09	07-01-09
H1650	Adams	COMMUNITIES OF OPPORTUNITY FUND.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-07-09	
H1717=	R. Warren	MODERNIZATION OF THE STATE ABC SYSTEM.	*HR	Ch. SL 2010-122	06-09-10	06-16-10
H1767=	Bryant	INVENTORY OF ANTIPOVERTY EFFORTS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Rules, Calendar, and Operations of the House	05-18-10	
H1801=	Harrison	ENVIRONMENTAL TECHNICAL CORRECTIONS 2010.	*H	Ref To Com On Rules and Operations of the Senate	06-01-10	06-22-10
H1802=	Harrison	ENR REPORTS CONSOL./ TECH. CORRECTS 2010.	*H	Pres. To Gov. 7/9/ 2010	06-01-10	06-22-10
H1803=	Harrison	REVIEW NC PROGRAMS FOR CLIMATE CHANGE IMPACTS	*H	Re-ref Com On State Government/ State Personnel	05-26-10	
$ H1823	**Crawford**	**SELL UNDERUTILIZED STATE AIRCRAFT.**	**H**	**Re-ref Com On Appropriations**	**05-19-10**	**06-09-10**
H1851=	Cole	AMEND STATE PURCHASES & CONTRACTS LAWS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary II	05-20-10	
H1852=	Cole	STUDY NONPROFIT GRANTS ACCOUNTABILITY.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	05-20-10	06-02-10
H1863=	Johnson	REED GOLD MINE REVOLVING FUND.	H	Re-ref Com On Appropriations	05-20-10	05-26-10
H1881=	McGee	IMPROVE TAX & DEBT COLLECTION PROCESS.	H	Ref to the Com on State Government/	05-20-10	

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				State Personnel, if favorable, Finance		
H1884=	Rapp	AMEND SEAA BOARD MEMBERSHIP.	H	Ref To Com On Education/Higher Education	06-08-10	06-10-10
H1892=	Insko	PRGM EVAL STUDY AGENCY REVERSAL ALJ DECISION.	H	Re-ref Com On Rules, Calendar, and Operations of the House	05-20-10	06-29-10
H1987	Heagarty	CITIZENS RECOMMEND LEGISLATIVE PAY.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-26-10	
H1997	Cleveland	NONPROFITS/CRITERIA TO RECEIVE STATE FUNDS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-26-10	
H2016	Insko	OPEN ENROLLMENT/ CONTRIBUTORY DEATH BENEFIT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Pensions and Retirement, if favorable, Appropriations	05-26-10	
H2017	Heagarty	CITIZENS' COMPENSATION COMMISSION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-26-10	
H2025	Blackwell	UNIFORM SALARY ADJUSTMENT CRITERIA/ STATE GOVT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House	05-26-10	
H2066	Bryant	SPECIAL RETIREMENT ALLOWANCES.	*HR	Ch. SL 2010-124	05-27-10	06-22-10
S0015	Tony Rand	SESSION LIMITS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	02-24-09	
S0036	James Forrester	EXPAND CHEM. ANALYSIS SITES/CONTR. SUBSTANCE.	H	Re-ref Com On Judiciary III	05-18-09	07-01-09
S0198	Vernon Malone	STATE BD. OF EDUC./ MEMBERSHIP RESTRICTIONS.	*HR	Ch. SL 2009-2	02-24-09	02-25-09
S0208=	Katie G. Dorsett	PEOPLE FIRST.	*HR	Ch. SL 2009-264	04-14-09	06-17-09

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332=	Peter S. Brunste	ZOO AND ZOO FUNDS MODIFICATIONS.	*HR	Ch. SL 2009-329	03-26-09	05-20-09
385	John Snow	MACON SUBDIVISIONS.	*HR	Ch. SL 2009-33	04-08-09	05-20-09
S0388	Daniel G. Clodfe	MODIFY RENEWABLE ENERGY PROPERTY CREDIT.	*HR	Ch. SL 2010-4	05-18-09	07-02-09
S0484=	Daniel G. Clodfe	AUDITOR EX OFFICIO DUTIES.	HR	Ch. SL 2009-136	04-06-09	05-26-09
S0514	Daniel G. Clodfe	MAGISTRATES PROVIDE APPOINTMENT OF COUNSEL.	*HR	Ch. SL 2009-419	05-21-09	06-23-09
S0658	Bob Atwater	MODIFY SUPP. RETIREMENT BOARD/ FURLOUGHS.	*HR	Ch. SL 2009-378	05-19-09	06-17-09
S0686	Tony Foriest	ELECTRONIC REPORTING OF ABANDONED PROPERTY.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary I	05-14-09	
S0691=	Katie G. Dorsett	TAX INFO DISCLOSURE TO STATE TREASURER.	*HR	Ch. SL 2009-283	05-04-09	05-20-09
S0712	Neal Hunt	STATE SURPLUS PROPERTY/ NEW RECIPIENT.	H	Re-ref Com On State Government/ State Personnel	05-13-09	
S0800	Tony Rand	ALLOW UNPAID INVESTIGATORY SUSPENSIONS/DHHS.	*H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	05-07-09	
328=	Clark Jenkins	BIDDING PROCESS CHANGES/MAINTENANCE AND OP.	*HR	Ch. SL 2009-266	06-04-09	06-24-09
S0863=	Philip E. Berger	PURCHASE SERVICE/ CERTAIN EMPLOYMENT.	*HR	Ch. SL 2009-392	04-30-09	05-26-09
S0978	Stan Bingham	FIREARMS QUALIFY SITES/EXPAND COMMSN. POWERS.	*HR	Ch. SL 2009-546	05-18-09	07-08-09
S0986=	Floyd B. McKissi	CLARIFY LOCAL SPECIAL SEPARATION ALLOWANCE.	*H	Re-ref Com On Pensions and Retirement	05-14-09	07-01-09
S0992	Don Davis	PYROTECHNICS OPERATOR'S LICENSE.	*HR	Ch. SL 2010-22	05-19-09	06-09-10
S1021=	Josh Stein	PROPERTY FINDERS.	*HR	Ch. SL 2009-312	05-18-09	05-27-09
S1213=	Daniel G. Clodfe	AMEND STATE PURCHASES & CONTRACTS LAWS.	*H	Pres. To Gov. 7/9/ 2010	06-29-10	07-06-10
S1263=	John Snow	BREVARD CHARTER AMENDMENT.	H	Ref To Com On State Government/ State Personnel	06-14-10	
S1323=	Richard Stevens	AMEND SEAA BOARD MEMBERSHIP.	HR	Ch. SL 2010-109	06-29-10	06-29-10
S1332	Floyd B. McKissi	SPAY/NEUTER PROGRAM TRANSFER.	*H	Re-ref Com On Finance	06-22-10	06-24-10
S1386	Don East	GOVERNMENT EMPLOYEES PORT BENEFITS.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	06-21-10	06-29-10

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'*' indicates that the text of the original bill was changed by some action.
'=' indicates that the original bill is identical to another bill.

HOUSE COMMITTEE ON STATE GOVERNMENT/STATE PERSONNEL
2009-2010

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
WILKINS, Winkie, Chair	Nancy Brantley Committee Assistant	715-0850	1301	71
HARRELL, Ty, V-Chair	Lara Swanson	733-5602	2121	108
JACKSON, Darren, V-Chair	Cassie Lester	733-5974	301N	92
MOBLEY, Annie, V-Chair	Janice Mobley-Bennett	733-5780	638	68
BURR, Justin	Dina Long	733-5908	1315	100
GILL, Rosa	Barbara Phillips	733-0196	1305	79
JUSTUS, Carolyn	Jo Hinton	733-5956	1023	27
KILLIAN, Richard	Jan Copeland	733-5886	1010	88
MACKEY, Nick	John Montgomery	733-5606	403	94
RANDLEMAN, Shirley	Ellen Picket	733-5935	1025	115
SAGER, Efton	Shirley Winstead	733-5755	508	118
SUTTON, Ron	Jo Bobbitt	715-0875	1321	72
WILEY, Laura	Edna Pearce	733-5877	513	76
WOMBLE, Larry	Dorothy McLean	733-5777	534	56
YONGUE, Douglas	Katie Stanley	733-5821	1303	1

Staff:

Karen Cochrane-Brown	733-2578	545
Theresa Matula	733-2578	545
Shirley Iorio	733-2578	545

HOUSE COMMITTEE ON STATE GOVERNMENT/STATE PERSONNEL
2009-2010

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Theresa Matula	733-2578	545
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HOUSE COMMITTEE ON STATE GOVERNMENT/STATE PERSONNEL
2009-2010

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Staff:		
Karen Cochrane-Brown	733-2578	545
Theresa Matula	733-2578	545
Shirley Iorio	733-2578	545

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/STATE PERSONNEL
2009-2010 SESSION



Rep. Winkie Wilkins

Chair



Rep. Ty Harrell

Vice chair



Rep. Darren Jackson

Vice chair



Rep. Annie Mobley

Vice chair



Rep. Justin Burr



Rep. Carolyn Justus



Rep. Ric Killian



Rep. Nick Mackey



Rep. Shirley Randleman



Rep. Efton Sager



Rep. Ron Sutton



Rep. Laura Wiley



Rep. Larry Womble



Rep. Douglas Yongue



Rep. Rosa Gill

Appointed 6-18-09

ATTENDANCE

State Government/State Personnel Committee

DATES	2-24-09 1st	2-24-09 2nd	3-03-09	3-10-09	3-24-09	3-31-09	4-07-09	4-14-09	4-21-09	4-28-09	4-30-09	5-05-09	5-06-09	5-12-09 1st	5-12-09 2nd
Rep. Winkie Wilkins, Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Ty Harrell, Vice Chair	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Darren Jackson, Vice Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	
Rep. Annie Mobley, Vice Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Justin Burr	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Carolyn Justus	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Richard Killian	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Rep. Nick Mackey	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Shirley Randleman	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Efton Sager	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Rep. Ron Sutton	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓
Rep. Laura Wiley		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Rep. Larry Womble	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Rep. Doug Yongue	✓	✓	✓		✓	✓	✓								
Staff:															
Karen Cochrane-Brown	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Theresa Matula	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓
Shirley Iorio	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

ATTENDANCE

State Government/State Personnel Committee

DATES	5-13-09	5-14-09	5-19-09	5-26-09	6-2-09	6-16-09	6-23-09	6-30-09	7-7-09	7-28-09					
Rep. Winkie Wilkins, Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Rep. Ty Harrell, Vice Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Rep. Darren Jackson, Vice Chair		✓	✓	✓	✓		✓	✓		✓					
Rep. Annie Mobley, Vice Chair	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Rep. Justin Burr		✓	✓	✓	✓	✓			✓	✓					
Rep. Rosa Gill (appointed 6/18/09)							✓	✓	✓	✓					
Rep. Carolyn Justus	✓	✓	✓	✓	✓		✓	✓	✓	✓					
Rep. Richard Killian			✓	✓	✓	✓	✓	✓	✓	✓					
Rep. Nick Mackey	✓		✓	✓	✓	✓			✓	✓					
Rep. Shirley Randleman	✓	✓	✓		✓	✓	✓	✓	✓	✓					
Rep. Efton Sager	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Rep. Ron Sutton			✓	✓	✓	✓	✓		✓	✓					
Rep. Laura Wiley			✓	✓	✓	✓	✓	✓	✓	✓					
Rep. Larry Womble				✓	✓	✓	✓	✓	✓	✓					
Rep. Doug Yongue		✓	✓			✓			✓						
Staff:															
Karen Cochrane-Brown		✓	✓	✓	✓	✓	✓	✓	✓	✓					
Theresa Matula	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					
Shirley Iorio	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓					

Minutes
House Committee on State Government/State Personnel
Tuesday, February 24, 2009

The House Committee on State Government/State Personnel met on Tuesday, February 24, 2009, at 2:00 PM in Room 1425 of the Legislative Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Womble, and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley, and Sergeant-at-Arms staff Fred Hines, Jerald Perry and Kenneth Burroughs. Chairman Wilkins recognized Pages Aaron Edge of Cumberland County, sponsored by Representative William Brisson, and Chris Jackson from Guilford County, who was sponsored by Representative John Blust.

Representative Phil Haire, one of the bill's sponsors, was recognized to explain his bill, **HB 89, Smoky Mountains National Park Plate Changes**. The bill would allow the use of fees collected from the Friends of the Great Smoky Mountains National Park special State attraction plate to be used for related administrative and operating expenses. Upon motion of Representative Harrell, the bill was given a favorable report with re-referral to the Committee on Finance.

Representative Garland Pierce, a Primary Sponsor of **HB 8, Prohibit Cell Phones in Prison**, was recognized to explain his bill, which would make it a Class I felony to provide cell phones to inmates in the custody of the Department of Corrections. Upon motion by Representative Sutton, the Proposed Committee Substitute was adopted for discussion. Mildred Spearman of the Department of Correction and Bob Kaylor, representing Verizon Wireless, spoke on the bill. Upon motion of Representative Sutton, the bill was given a favorable report as to the PCS, unfavorable as to the original bill, and recommendation that the PCS be re-re-referred to the Committee on Judiciary III.

Chairman Wilkins announced that the Committee would meet immediately after the Session to take up SB 198.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 89 A BILL TO BE ENTITLED AN ACT TO ALLOW THE USE OF FEES COLLECTED FROM THE FRIENDS OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK SPECIAL STATE ATTRACTION PLATE TO BE USED FOR ORDINARY ADMINISTRATIVE AND OPERATING EXPENSES.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 8 A BILL TO BE ENTITLED AN ACT TO MAKE IT A FELONY TO PROVIDE CELL PHONES TO INMATES IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY III.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, February 24, 2009
2:00 PM
Room 1425, LB

I. Agenda Items

HB 8	Prohibit Cell Phones in Prison Representatives Pierce and Hall, Primary Sponsors
HB 89	Smoky Mountains National Park Plate Changes Representative Haire, Primary Sponsor

II. Discussion

III. Adjourn

HOUSE BILL 89

Short Title:	Smoky Mountains National Park Plate Changes.	(Public)
Sponsors:	Representatives Haire; and Tarleton.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 9, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE USE OF FEES COLLECTED FROM THE FRIENDS OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK SPECIAL STATE ATTRACTION PLATE TO BE USED FOR ORDINARY ADMINISTRATIVE AND OPERATING EXPENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-81.12(b2)(1c) reads as rewritten:

"(1c) Friends of the Great Smoky Mountains National Park. – The revenue derived from the special plate shall be transferred quarterly to the Friends of the Great Smoky Mountains National Park, Inc., to be used for educational materials, preservation programs, capital improvements for the portion of the Great Smoky Mountains National Park that is located in North Carolina, and ~~operating expenses of the Great Smoky Mountains National Park.~~related administrative and operating expenses."

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

HOUSE BILL 89:
Smoky Mountains National Park Plate Changes

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Finance	**Date:**	February 24, 2009
Introduced by:	Rep. Haire	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	First Edition		

SUMMARY: ***House Bill 89 would allow the use of fees collected from the Friends of the Great Smoky Mountains National Park special State attraction plate to be used for related administrative and operating expenses.***

The bill has a serial referral to Finance.

[As introduced, this bill was identical to S3, as introduced by Sen. Snow, which is currently in Senate Ref to Finance. If fav, re-ref to Appropriations/Base Budget.]

CURRENT LAW: G.S. 20-81.12(b2)(1c) requires that the revenue collected from the Friends of the Great Smoky Mountains National Park special plates be used for educational materials, preservation programs, capital improvements for the portion of the Great Smoky Mountains National Park that is located in North Carolina and operating expenses of the Great Smoky Mountains National Park.

BILL ANALYSIS: House Bill 89 would allow the revenue collected from the Friends of the Great Smoky Mountains National Park special plates to be used for related administrative costs in addition to operating expenses.

EFFECTIVE DATE: **The act would become effective when it becomes law.**

BACKGROUND: The Friends of the Great Smoky Mountains National Park special plate is one of several State attraction plates available in North Carolina. The Division of Motor Vehicles (Division) must receive 300 or more applications for a State attraction plate before the plate may be developed. The Division transfers quarterly the money derived from the sale of State attraction plates to the organization named for a particular plate in proportion to the number of State attraction plates sold representing that organization.

H89-SMSF-2(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 8
PROPOSED COMMITTEE SUBSTITUTE H8-PCS30089-RO-1

Short Title: Prohibit Cell Phones in Prison. (Public)

Sponsors:

Referred to:

February 2, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE IT A FELONY TO PROVIDE CELL PHONES TO INMATES IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-258.1 reads as rewritten:

"**§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement ~~facilities.~~ facilities; furnishing mobile phones to inmates.**

(a) ~~If any person~~ Any person who shall give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, or ~~if any person~~ any person who shall combine, confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage, attempt to procure, or procure another or others to give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, any deadly weapon, or any cartridge or ammunition for firearms of any kind, or any controlled substances included in Schedules I through VI contained in Article 5 of Chapter 90 of the General Statutes except under the general supervision of a practitioner, poison or poisonous substance, except upon the prescription of a physician, ~~he~~ shall be punished as a Class H ~~felon; and if he be~~ felon. If the person is an officer or employee of any institution of the State, or of any local confinement facility, ~~he~~ the person shall be dismissed from ~~his position or~~ office.

(b) Any person who shall knowingly give or sell any alcoholic beverages to any inmate of any State mental or penal institution, or to any inmate of any local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall combine, confederate, conspire, procure, or procure another or others to give or sell any alcoholic beverages to any inmate of any such State institution or local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall bring into the buildings, grounds or other facilities of such institution any alcoholic beverages, except for medical purposes as prescribed by a duly licensed physician or sacramental wine brought by an ordained minister or rabbi for use as part of a religious service, shall be guilty of a Class 1 misdemeanor. If such person is an officer or employee of any institution of the State, such person shall be dismissed from office.

(c) Any person who knowingly gives or sells a mobile telephone as defined in G.S. 20-137.3(a)(2), or a component of a mobile telephone, to an inmate in the custody of the Department of Correction, or any person who knowingly gives or sells a mobile telephone or component to a person who is not an inmate for delivery to an inmate, is guilty of a Class I felony."

SECTION 2. This act becomes effective December 1, 2009, and applies to acts committed on or after that date.

HOUSE BILL 8:
Prohibit Cell Phones in Prison

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary III	**Date:**	February 19, 2009
Introduced by:	Reps. Pierce, Hall	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	Proposed Committee Substitute (H8-CSRO-1)		Committee Counsel

SUMMARY: House Bill 8 makes it a Class I felony to provide cell phones to inmates in the custody of the Department of Corrections.

CURRENT LAW:

Under current law, it is a Class H felony to provide poison, a controlled substance, a deadly weapon, or any cartridge or ammunition to an inmate of any charitable, mental, or penal institution, including a local confinement facility. If the person providing the contraband to the inmate is an officer or employee of the institution, that person shall also be dismissed from employment.

It is also a Class 1 misdemeanor to knowingly give or sell any alcoholic beverages to any inmate of any State mental or penal institution, or local confinement facility, except when prescribed by a physician or when given by a minister or rabbi as part of a religious service.

BILL ANALYSIS:

House Bill 8 makes it a Class I felony for any person to knowingly give or sell a mobile telephone to an inmate in the custody of the Department of Corrections, or to knowingly give or sell a mobile telephone to another person for delivery to an inmate.

The PCS adds a reference to the definition of the term mobile telephone found in G.S. 20-137.3(a)(2).

EFFECTIVE DATE: This act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

§ 20-137.3. Unlawful use of a mobile phone by persons under 18 years of age.

(a) Definitions. – The following definitions apply in this section:

(2) Mobile telephone. – A device used by subscribers and other users of wireless telephone service to access the service. The term includes: (i) a device with which a user engages in a call using at least one hand, and (ii) a device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of the mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate, or initiate a function of such telephone.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

HOUSE BILL 8

Short Title:	Prohibit Cell Phones in Prison.	(Public)
Sponsors:	Representatives Pierce, Hall (Primary Sponsors); K. Alexander, M. Alexander, Allred, Bell, Blackwell, Burr, Cleveland, Dockham, Dollar, Faison, Farmer-Butterfield, Fisher, Frye, Gulley, Harrison, Jackson, Justice, Justus, McLawhorn, Randleman, Starnes, Stevens, and Tillis.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 2, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE IT A FELONY TO PROVIDE CELL PHONES TO INMATES IN THE CUSTODY OF THE DEPARTMENT OF CORRECTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-258.1 reads as rewritten:

"**§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement ~~facilities.~~ facilities; furnishing mobile phones to inmates.**

(a) If any person shall give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, or if any person shall combine, confederate, conspire, aid, abet, solicit, urge, investigate, counsel, advise, encourage, attempt to procure, or procure another or others to give or sell to any inmate of any charitable, mental or penal institution, or local confinement facility, any deadly weapon, or any cartridge or ammunition for firearms of any kind, or any controlled substances included in Schedules I through VI contained in Article 5 of Chapter 90 of the General Statutes except under the general supervision of a practitioner, poison or poisonous substance, except upon the prescription of a physician, he shall be punished as a Class H felon; and if he be an officer or employee of any institution of the State, or of any local confinement facility, he shall be dismissed from his position or office.

(b) Any person who shall knowingly give or sell any alcoholic beverages to any inmate of any State mental or penal institution, or to any inmate of any local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall combine, confederate, conspire, procure, or procure another or others to give or sell any alcoholic beverages to any inmate of any such State institution or local confinement facility, except for medical purposes as prescribed by a duly licensed physician and except for an ordained minister or rabbi who gives sacramental wine to an inmate as part of a religious service; or any person who shall bring into the buildings, grounds or other facilities of such institution any alcoholic beverages, except for medical purposes as prescribed by a duly licensed physician or sacramental wine brought by an ordained minister or rabbi for use as part of a religious service, shall be guilty of a Class 1 misdemeanor. If such person is an officer or employee of any institution of the State, such person shall be dismissed from office.

(c) Any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Department of Correction, or any person who knowingly gives or sells any such device or component to a person who is not an inmate for delivery to an inmate, is guilty of a Class I felony."

SECTION 2. This act becomes effective December 1, 2009, and applies to acts committed on or after that date.

VISITOR REGISTRATION SHEET

STATE GOVERNMENT STATE PERSONNEL — 24-FEB-99

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Dyon	Ed Consultant
Harrison Gilbert	Governor's Office
Mark Sisson	DOT
Z. Kendall	DOP
Scott Peela	DOP
RW Kaylor	Kaylor Law Firm
Linda Coleman	OSP
Wendy Kelly	SZDWicker
CBrockett	NCSBA

VISITOR REGISTRATION SHEET

STATE GOVERNMENT STATE PERSONNEL — 24-FEB-08

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Mildred Spearman	NCDOC
Carl Goodwin	OSP
Debra DeCamilla	UNC School of Government
Scott Mooneyham	The Insider
Thomas Mebane	Fiscal Research

Minutes
House Committee on State Government/State Personnel
Tuesday, February 24, 2009

Immediately after Session, Chairman Wilkins called the second meeting of the Committee to order at 3:35 PM on Tuesday, February 24, 2009, in Room 1228 of the Legislative Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley, Womble, and Yongue. The Chairman recognized staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines, Kenneth Burroughs, Frank Prevo and Marvin Lee.

The following bill was considered:

Senate Bill 198: A BILL TO BE ENTITLED AN ACT TO MODIFY THE RESTRICTIONS ON SERVICE ON THE STATE BOARD OF EDUCATION. Upon motion by Representative Yongue, the Proposed Committee Substitute (PCS) was adopted for discussion. Representative Wainwright explained the bill, sponsored by Senator Vernon Malone, which would allow for no more than two public school employees paid from State or local funds to serve as appointive members of the State Board of Education. The bill would also allow an employee of the Department of Public Instruction to serve as an appointive member of the State Board of Education. Representative Yongue made a motion for a favorable report on the House Committee Substitute for Senate Bill 198. The motion was adopted.

The meeting was adjourned at 4:00 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒ House Committee Substitute for
SB 198 A BILL TO BE ENTITLED AN ACT TO MODIFY THE RESTRICTIONS ON SERVICE ON THE STATE BOARD OF EDUCATION.

☒ 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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, February 24, 2009
Immediately after 3:00 PM Session
Room 1228, LB

I. Agenda Item

SB 198 An Act to Modify the Restrictions on Service on the State Board of Education
Senator Vernon Malone, Primary Sponsor

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 198
Education/Higher Education Committee Substitute Adopted 2/18/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S198-PCS35090-TC-3

Short Title: State Bd. of Educ./Membership Restrictions. (Public)

Sponsors:

Referred to:

February 17, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE RESTRICTIONS ON SERVICE ON THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-10 reads as rewritten:

"**§ 115C-10. Appointment of Board.**

The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. Not more than ~~one~~ two public school ~~employee~~ employees paid from State or local funds may serve as ~~an~~ appointive ~~member~~ members of the State Board of Education. No spouse of any public school employee paid from State or local funds ~~and no employee of the Department of Public Instruction or his spouse,~~ and no spouse of any employee of the Department of Public Instruction may serve as an appointive member of the State Board of Education. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and three shall be appointed as members at large. Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed ~~by him~~ by the Governor and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments."

SECTION 2. G.S. 14-234 is amended by adding a new subsection to read:

"(d6) This section does not apply to employment contracts between the State Board of Education and its chief executive officer."

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



SENATE BILL 198:
State Bd. of Educ./Membership Restrictions

2009-2010 General Assembly

Committee:	House Education, if favorable, State Government/State Personnel	**Date:**	February 24, 2009
Introduced by:	Sen. Malone	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	Third Edition		Legislative Analyst

SUMMARY: ***Senate Bill 198 would allow for no more than two public school employees paid from State or local funds to serve as appointive members of the State Board of Education. The bill would also allow an employee of the Department of Public Instruction to serve as an appointive member of the State Board of Education.***

CURRENT LAW: Article IX, Section 4 of the North Carolina Constitution contains the following requirements for appointing members to the State Board of Education (State Board):

- The Governor appoints 11 members of the State Board in overlapping terms, "subject to confirmation by the General Assembly in joint session."
- One member is appointed to the Board from each of the eight education districts and three members are appointed at large.
- Members are appointed for overlapping terms of 8 years.

In addition to restating the Constitutional requirements, G.S. 115C-10 also requires the following:

- Not more than one public school employee paid from State or local funds may serve as an appointive member of the State Board.
- No spouse of a public school employee paid from State or local funds and no employee of the Department of Public Instruction or employee's spouse may serve as an appointive member of the State Board.

G.S. 14-234(a)(1) prohibits a public officer or employee who is involved in making or administering a contract on behalf of a public agency from deriving a direct benefit from the contract except as provided in the section or otherwise allowed by law.

BILL ANALYSIS: Senate Bill 198 would increase the number of public school employees paid from State or local funds that can serve as appointive members of the Board from no more than 1 to no more than two members. The bill would also remove the prohibition against an employee of the Department of Public Instruction serving as an appointive member of the Board. The bill also exempts employment contracts between the State Board of Education and its chief executive officer from the law that prohibits public officers or employees from benefiting from public contracts.

EFFECTIVE DATE: The bill is effective when it becomes law.

Sara Kamprath, Legislative Analyst,, substantially contributed to this summary.

SENATE BILL 198
Education/Higher Education Committee Substitute Adopted 2/18/09

Short Title: State Bd. of Educ./Membership Restrictions. (Public)

Sponsors:

Referred to:

February 17, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE RESTRICTIONS ON SERVICE ON THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-10 reads as rewritten:

"**§ 115C-10. Appointment of Board.**

The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. Not more than ~~one~~ two public school ~~employee~~ employees paid from State or local funds may serve as ~~an~~ appointive ~~member~~ members of the State Board of Education. No spouse of any public school employee paid from State or local funds ~~and no employee of the Department of Public Instruction or his spouse,~~ and no spouse of any employee of the Department of Public Instruction may serve as an appointive member of the State Board of Education. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and three shall be appointed as members at large. Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed by him and submitted to the General Assembly for confirmation; thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments."

SECTION 2. G.S. 14-234 is amended by adding a new subsection to read:

"(d6) This section does not apply to employment contracts between the State Board of Education and its chief executive officer."

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

3:30 mtg

A/S

VISITOR REGISTRATION SHEET

Education Comm. — 2-24-09

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Emily Doyle	NCPAPA
[signature]	WCBSS
Katherine Joyce	NCASA
C. Brockett	NCSBA
Jim Stegall	U.C.P.S.
[signature]	[signature]
Chris Minard	State Bd of Ed
Michael Hutson	MWC
David Bray	MWC
Courtney Crowder	Governor's office

Minutes
House Committee on State Government/State Personnel
Tuesday, March 3, 2009

The House Committee on State Government/State Personnel met on Tuesday, March 3, 2009, at 2:00 PM in Room 1425 of the Legislative Building. The following members were present: Chairman Wilkins; Vice Chairs Harrell, Jackson and Mobley; and Representatives Burr, Killian, Mackey, Randleman, Sager, Sutton, Wiley, Womble, and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines, David Shearon, Robert Rossi, and James Worth. The Chairman recognized Pages Brandon Whitmire from Wayne County, sponsored by Representative Efton Sager; and Chelsey Wiggins from Nash County, sponsored by Representative Angela Bryant.

Representative Timothy Spear was recognized to explain his bill, **House Bill 201, Add Division of LESS to CCPS**. By motion of Representative Yongue, the Proposed Committee Substitute was adopted for discussion. The PCS statutorily establishes the Division of Law Enforcement Support Services, Department of Crime Control and Public Safety and provides exemptions from the motor vehicle dealers and manufacturers licensing law and the highway use tax for vehicles transferred through a program with the United States Department of Defense. Mr. Neil Woodcock, Director of Law Enforcement Support Services, spoke on behalf of the bill. Representative Womble moved for a favorable report to the proposed committee substitute, unfavorable as to the original bill, and recommendation that the committee substitute be re-referred to the Committee on Finance. The motion carried.

Representative Melanie Wade Goodwin was called on to explain her bill, **House Bill 221, Oversight of Licensing Boards**, which authorizes the Joint Legislative Administrative Procedure Oversight Committee to review the activities of occupational licensing boards and to determine if the boards are still needed. Representative Yongue moved for a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary I. The motion carried.

The meeting was adjourned at 2:35 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Clerk

Attachments: House Bills 201 and 221; Committee Reports; and Visitors Sheet.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, March 3, 2009
2:00 PM
Room 1425, LB

I. Agenda Items

HB 201 — Add Division of LESS to CCPS
Representatives Spear and R. Warren, Primary Sponsors

HB 221 — Oversight of Licensing Boards
Representatives Goodwin, Moore and Jones, Primary Sponsors

II. Discussion

III. Adjourn

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

x☐Committee Substitute for

HB 201 A BILL TO BE ENTITLED AN ACT TO CLARIFY THAT THE DIVISION OF LAW ENFORCEMENT SUPPORT SERVICES IS A DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, TO ASSIGN DUTIES TO THE DIVISION, AND TO MAKE CORRESPONDING CHANGES TO CHAPTERS 20 AND 105 OF THE GENERAL STATUTES TO ALLOW LAW ENFORCEMENT SUPPORT SERVICES TO TRANSFER MOTOR VEHICLES TO LAW ENFORCEMENT AGENCIES WITHOUT HAVING TO BECOME A MOTOR VEHICLE DEALER OR PAY HIGHWAY USE TAXES.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(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.

_____ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 221 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO REVIEW THE ACTIVITIES OF OCCUPATIONAL LICENSING BOARDS, TO REQUIRE THAT CERTAIN LICENSING BOARDS BE AUDITED ANNUALLY, TO SPECIFY A DATE FOR FILING OF REPORTS, TO ESTABLISH SANCTIONS FOR FAILURE TO FILE REPORTS, AND TO REQUIRE THAT BOARD MEMBERS RECEIVE TRAINING, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY I.

(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 _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 201*
PROPOSED COMMITTEE SUBSTITUTE H201-CSSH-1 [v.2]

2/27/2009 5:32:23 PM

Short Title: Add Division of LESS to CCPS. (Public)

Sponsors:

Referred to:

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE DIVISION OF LAW ENFORCEMENT SUPPORT SERVICES IS A DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, TO ASSIGN DUTIES TO THE DIVISION, AND TO MAKE CORRESPONDING CHANGES TO CHAPTERS 20 AND 105 OF THE GENERAL STATUTES TO ALLOW LAW ENFORCEMENT SUPPORT SERVICES TO TRANSFER MOTOR VEHICLES TO LAW ENFORCEMENT AGENCIES WITHOUT HAVING TO BECOME A MOTOR VEHICLE DEALER OR PAY HIGHWAY USE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-287(a) reads as rewritten:

"**§ 20-287. Licenses required; penalties.**

(a) License Required. – It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of the dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who ~~operates~~ operate as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom. The provisions of this subsection do not apply to the Department of Crime Control and Public Safety, Division of Law Enforcement Support Services, when receiving, titling, or transferring any vehicle acquired under the provisions of 10 U.S.C. § 381 or any similar acquisition and transfer program administered by the Division of Law Enforcement Support Services."

SECTION 2. G.S. 105-187.6(a) reads as rewritten:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

(1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.

(2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.
(3) To the same owner to reflect a change or correction in the owner's name.
(3a) To one or more of the same co-owners to reflect the removal of one or more other co-owners, when there is no consideration for the transfer.
(4) By will or intestacy.
(5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.
(6) By a distribution of marital or divisible property incident to a marital separation or divorce.
(7) To a handicapped person from the Department of Health and Human Services after the vehicle has been equipped by the Department for use by the handicapped.
(8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:
a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.
b. By a local board of education.
(9) To a volunteer fire department or volunteer rescue squad that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11, when the motor vehicle is one of the following:
a. A fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire.
b. A four-wheel drive vehicle intended to be mounted with a water tank and hose and used for forest fire fighting.
c. An emergency services vehicle.
(10) To a qualified State agency if the agency received the motor vehicle from the United States Department of Defense for transfer to a qualified recipient and the transfer occurs within 180 days of the receipt of a United States Government Certificate to Obtain Title to a Vehicle. The exemption also applies to the transfer of a motor vehicle by a qualified recipient to a qualified State agency if the motor vehicle is being returned for the purpose of transferring the motor vehicle to another qualified recipient. Qualified recipients are to pay highway use tax due unless specifically exempted by this section. For purposes of this subdivision, a 'qualified State agency' is the Division of Law Enforcement Support Services of the Department of Crime Control and Public Safety, or the Division of Forest Resources of the Department of Environment and Natural Resources, and a 'qualified recipient' is an emergency response unit, a law enforcement agency, or a volunteer fire department."

SECTION 3. Article 11 of Chapter 143B is amended by adding a Part to read:

"Part 7. Law Enforcement Support Services Division.

"**§ 143B-508. Law Enforcement Support Services Division established.**

(a) There is hereby established, within the Department of Crime Control and Public Safety, the Law Enforcement Support Services Division, which shall be organized and staffed in accordance with this Part and within the limits of authorized appropriations.

(b) The Law Enforcement Support Services Division is authorized to perform the following functions:

(1) Manage State, local, and federal programs that facilitate or enable the transfer of technology, goods, and services through programs for excess property, property acquisition, and equipment loans.

(2) Provide central storage and management of evidence according to the provisions of Article 13, Chapter 15A, and creation and maintenance of a data bank of statewide storage location of postconviction evidence or other similar programs.

(3) Provide central storage and management of rape kits according to the federal Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or "Jane Doe" rape kits without victim consent.

(4) Acquire, maintain, and control equipment to be loaned to law enforcement agencies for use in undercover investigations and to other agencies for other purposes.

(5) Develop, test, and promulgate innovative and technological solutions for the first responder community.

(6) Provide other assistance as may be necessary or appropriate to carry out assigned duties and responsibilities."

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

HOUSE BILL 201:
Add Division of LESS to CCPS

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Finance	**Date:**	March 2, 2009
Introduced by:	Reps. Spear, R. Warren	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition H201-CSSH-1		

SUMMARY: ***The PCS for House Bill 201 statutorily establishes the Division of Law Enforcement Support Services, Department of Crime Control and Public Safety, and provides exemptions from the motor vehicle dealers and manufacturers licensing law and the highway use tax for vehicles transferred through a program with the United States Department of Defense. The Proposed Committee Substitute makes technical and clarifying changes.***

CURRENT LAW:

G.S. 20-287 provides that it is unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in North Carolina without first obtaining a license.

G.S. 105-187.6(a) provides a list of full exemptions to the North Carolina highway use tax when a certificate of title is issued as a result of transfer of a motor vehicle.

BILL ANALYSIS:

Section 1 of the Proposed Committee Substitute (PCS) for House Bill 201 amends G.S. 20-287(a) to exempt the Department of Crime Control and Public Safety, Division of Law Enforcement Support Services, from being required to hold a license when receiving, titling, or transferring any vehicle acquired under the provisions of 10 U.S. Code, Section 381, or any similar acquisition and transfer program administered by the Division. The PCS corrects the code citation.

Section 2 of the PCS amends G.S. 105-187.6(a) which pertains to those situations involving a certificate of title issued as a result of a transfer of a motor vehicle and in which a full exemption is given to the North Carolina Highway Use Tax. The language in the PCS represents technical and clarifying changes. The language provides a tax exemption to a qualified State agency if the agency received the motor vehicle from the United States Department of Defense for transfer to a qualified recipient and the transfer occurs within 180 days of the receipt of a United States Government Certificate to Obtain Title to a Vehicle (Standard Form 97). The exemption also applies to the transfer of a motor vehicle by a qualified recipient to a qualified State agency if the motor vehicle is being returned for the purpose of transferring the motor vehicle to another qualified recipient. In this subdivision, the following definitions apply:

- qualified State agency - the Division of Law Enforcement Support Services, Department of Crime Control and Public Safety, or the Division of Forest Resources, Department of Environment and Natural Resources.
- qualified recipient - an emergency response unit, a law enforcement agency, or a volunteer fire department.

Section 3 of the PCS amends Article 11 Department of Crime Control and Public Safety, of Chapter 143B Executive Organization, by adding a Part establishing the Law Enforcement Support Services Division. G.S. 143B-508 formally establishes the Division and outlines the functions. The PCS makes technical and clarifying changes.

EFFECTIVE DATE: The act becomes effective when it becomes law.

H201-SMSH-8(CSSH-1) v3

HOUSE BILL 201*

Short Title:	Add Division of LESS to CCPS.	(Public)
Sponsors:	Representatives Spear, R. Warren (Primary Sponsors); Braxton, Brisson, Hurley, Justus, Love, Lucas, McLawhorn, and Tarleton.	
Referred to:	State Government/State Personnel, if favorable, Finance.	

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE DIVISION OF LAW ENFORCEMENT SUPPORT SERVICES IS A DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, TO ASSIGN DUTIES TO THE DIVISION, AND TO MAKE CORRESPONDING CHANGES TO CHAPTERS 20 AND 105 OF THE GENERAL STATUTES TO ALLOW LAW ENFORCEMENT SUPPORT SERVICES TO TRANSFER MOTOR VEHICLES TO LAW ENFORCEMENT AGENCIES WITHOUT HAVING TO BECOME A MOTOR VEHICLE DEALER OR PAY HIGHWAY USE TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-287(a) reads as rewritten:

"**§ 20-287. Licenses required; penalties.**

(a) License Required. – It shall be unlawful for any new motor vehicle dealer, used motor vehicle dealer, motor vehicle sales representative, manufacturer, factory branch, factory representative, distributor, distributor branch, distributor representative, or wholesaler to engage in business in this State without first obtaining a license as provided in this Article. If any motor vehicle dealer acts as a motor vehicle sales representative, the dealer shall obtain a motor vehicle sales representative's license in addition to a motor vehicle dealer's license. A sales representative may have only one license. The license shall show the name of the dealer or wholesaler employing the sales representative. The following license holders may operate as a motor vehicle dealer without obtaining a motor vehicle dealer's license or paying an additional fee: a manufacturer, a factory branch, a distributor, and a distributor branch. Any of these license holders who ~~operates~~ operate as a motor vehicle dealer may sell motor vehicles at retail only at an established salesroom. The provisions of this subsection do not apply to the Department of Crime Control and Public Safety, Division of Law Enforcement Support Services, when receiving, titling, or transferring any vehicle acquired under the provisions of Title 10 Section 285 of the United States Code or any similar acquisition and transfer program administered by the Division of Law Enforcement Support Services."

SECTION 2. G.S. 105-187.6(a) reads as rewritten:

"(a) Full Exemptions. – The tax imposed by this Article does not apply when a certificate of title is issued as the result of a transfer of a motor vehicle:

(1) To the insurer of the motor vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.

(2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle retailer for the purpose of resale.

(3) To the same owner to reflect a change or correction in the owner's name.

(3a) To one or more of the same co-owners to reflect the removal of one or more other co-owners, when there is no consideration for the transfer.

(4) By will or intestacy.

(5) By a gift between a husband and wife, a parent and child, or a stepparent and a stepchild.

(6) By a distribution of marital or divisible property incident to a marital separation or divorce.

(7) To a handicapped person from the Department of Health and Human Services after the vehicle has been equipped by the Department for use by the handicapped.

(8) To a local board of education for use in the driver education program of a public school when the motor vehicle is transferred:

a. By a retailer and is to be transferred back to the retailer within 300 days after the transfer to the local board.

b. By a local board of education.

(9) To a volunteer fire department or volunteer rescue squad that is not part of a unit of local government, has no more than two paid employees, and is exempt from State income tax under G.S. 105-130.11, when the motor vehicle is one of the following:

a. A fire truck, a pump truck, a tanker truck, or a ladder truck used to suppress fire.

b. A four-wheel drive vehicle intended to be mounted with a water tank and hose and used for forest fire fighting.

c. An emergency services vehicle.

(10) The Department of Crime Control and Public Safety, Division of Law Enforcement Support Services and the Department of Environment and Natural Resources, Division of Forest Resources, when acting as pass-through agents for the purpose of transferring vehicles obtained from the United States Department of Defense to emergency response units, law enforcement agencies, and volunteer fire departments within the State of North Carolina. To remain eligible for this exemption, a vehicle title transfer to a qualified agency shall be made within 180 days of receipt of the completed Standard Form 97. The exemption provided by this subdivision shall also apply to vehicles returned to either the Division of Law Enforcement Support Services or the Division of Forest Resources by a recipient agency for the purpose of transfer to another qualified agency. Emergency response units, law enforcement agencies, and volunteer fire departments are to pay any highway use tax due unless specifically exempted by this section."

SECTION 3. Article 11 of Chapter 143B is amended by adding a Part to read:

"Part 7. Law Enforcement Support Services Division.

"**§ 143B-508. Law Enforcement Support Services Division established.**

(a) There is hereby established, within the Department of Crime Control and Public Safety, the Law Enforcement Support Services Division, which shall be organized and staffed in accordance with this Part and within the limits of authorized appropriations.

(b) The Law Enforcement Support Services Division is authorized to perform the following functions:

(1) Manage State, local, and federal programs that facilitate or enable transfer of technology, goods, and services through excess property, property acquisition, and equipment loan programs.

(2) Provide central storage and management of evidence per the DNA Database and Databank Act of 1993, and creation and maintenance of a data bank of statewide storage location of postconviction evidence or other similar programs.

(3) Provide central storage and management of rape kits per the Violence Against Women and Department of Justice Reauthorization Act of 2005 with specific protections against release of names of victims providing anonymous or "Jane Doe" rape kits without victim consent.

(4) Acquire, maintain, and control equipment to be loaned to law enforcement agencies for use in undercover investigations and to other agencies for other purposes.

(5) Develop, test, and promulgate innovative and technological solutions for the first responder community.

(6) Provide any other assistance the Governor or Secretary of Crime Control and Public Safety may direct."

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

HOUSE BILL 221*

Short Title:	Oversight of Licensing Boards.	(Public)
Sponsors:	Representatives Goodwin, Moore, Jones (Primary Sponsors); Adams, K. Alexander, M. Alexander, Faison, Hurley, and Wainwright.	
Referred to:	State Government/State Personnel, if favorable, Judiciary I.	

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE TO REVIEW THE ACTIVITIES OF OCCUPATIONAL LICENSING BOARDS, TO REQUIRE THAT CERTAIN LICENSING BOARDS BE AUDITED ANNUALLY, TO SPECIFY A DATE FOR FILING OF REPORTS, TO ESTABLISH SANCTIONS FOR FAILURE TO FILE REPORTS, AND TO REQUIRE THAT BOARD MEMBERS RECEIVE TRAINING, AS RECOMMENDED BY THE JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-70.101 reads as rewritten:

"**§ 120-70.101. Purpose and powers of Committee.**

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

(1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.

(2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.

~~(3) To prepare a notebook that contains the administrative rules that have been approved by the Rules Review Commission and reported to the Committee and to notify each member of the General Assembly of the availability of the notebook.~~

(3a) To review the activities of State occupational licensing boards to determine if the boards are operating in accordance with statutory requirements and if the boards are still necessary to achieve the purposes for which they were created.

(4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.

(5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.

(6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.

(7) To review any other concerns about administrative law to determine if statutory changes are needed.

(8) To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes."

SECTION 2. G.S. 93B-2 reads as rewritten:

"**§ 93B-2. Annual reports required; contents; open to ~~inspection.~~ inspection, sanction for failure to report.**

(a) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee an annual report containing all of the following information:

(1) The address of the board, and the names of its members and officers.
(2) The number of persons who applied to the board for examination.
(3) The number who were refused examination.
(4) The number who took the examination.
(5) The number to whom initial licenses were issued.
(6) The number who applied for license by reciprocity or comity.
(7) The number who were granted licenses by reciprocity or comity.
(8) The number of licenses suspended or revoked.
(9) The number of licenses terminated for any reason other than failure to pay the required renewal fee.
(10) The substance of any anticipated request by the occupational licensing board to the General Assembly to amend statutes related to the occupational licensing board.
(11) The substance of any anticipated change in rules adopted by the occupational licensing board or the substance of any anticipated adoption of new rules by the occupational licensing board.

(b) ~~Each~~ No later than October 31 of each year, each occupational licensing board shall file with the Secretary of State, the Attorney General, the Office of State Budget and Management, and the Joint Legislative Administrative Procedure Oversight Committee a financial report that includes the source and amount of all funds credited to the occupational licensing board and the purpose and amount of all funds disbursed by the occupational licensing board during the previous ~~12-month period.~~ fiscal year.

(c) The reports required by this section shall be open to public inspection.

(d) Failure of a board to comply with the reporting requirements of this section shall result in a suspension of the board's authority to collect fees until such time as the board files the required reports."

SECTION 3. G.S. 93B-4 reads as rewritten:

"**§ 93B-4. Audit of Occupational Licensing Boards; payment of costs.**

(a) The State Auditor shall audit occupational licensing boards from time to time to ensure their proper operation. The books, records, and operations of each occupational licensing board shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. In accordance with G.S. 147-64.7(b), the State Auditor may contract with independent professionals to meet the requirements of this section.

The cost of all audits shall be paid from funds of the occupational licensing board audited.

(b) Each occupational licensing board with a budget of at least fifty thousand dollars ($50,000) shall conduct an annual financial audit of its operations. "

SECTION 4. G.S. 93B-5 reads as rewritten:

"**§ 93B-5. ~~Compensation and employment~~ Compensation, employment, and training of board members.**

(a) Board members shall receive as compensation for their services per diem not to exceed one hundred dollars ($100.00) for each day during which they are engaged in the official business of the board.

(b) Board members shall be reimbursed for all necessary travel expenses in an amount not to exceed that authorized under G.S. 138-6(a) for officers and employees of State departments. Actual expenditures of board members in excess of the maximum amounts set forth in G.S. 138-6(a) for travel and subsistence may be reimbursed if the prior approval of the State Director of Budget is obtained and such approved expenditures are within the established and published uniform standards and criteria of the State Director of Budget authorized under G.S. 138-7 for extraordinary charges for hotels, meals, and convention registration for State officers and employees, whenever such charges are the result of required official business of the Board.

(c) Repealed by Session Laws 1981, c. 757, s. 2.

(d) Except as provided herein board members shall not be paid a salary or receive any additional compensation for services rendered as members of the board.

(e) Board members shall not be permanent, salaried employees of said board.

(f) Repealed by Session Laws 1975, c. 765, s. 1.

(g) Within six months of a board member's initial appointment to the board, and at least once every two years thereafter, a board member shall receive training on the statutes governing the board and rules adopted by the board, as well as the following State laws in order to better understand the obligations and limitations of a State agency:

(1) Chapter 150B, The Administrative Procedure Act.

(2) Chapter 132, The Public Records Law.

(3) Article 33C of Chapter 143, The Open Meetings Act.

(4) Articles 31 and 31A of Chapter 143, The State Tort Claims Act and the Defense of State Employees Law.

(5) Chapter 138A, The State Government Ethics Act.

(6) Chapter 120C, Lobbying."

SECTION 5. This act becomes effective October 1, 2009.

HOUSE BILL 221:
Oversight of Licensing Boards

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary I	**Date:**	February 27, 2009
Introduced by:	Reps. Goodwin, Moore, Jones	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 221 authorizes the Joint Legislative Administrative Procedure Oversight Committee to review the activities of occupational licensing boards and to determine if the boards are still needed. The bill also (1) specifies a filing date for reports from licensing boards and establishes sanctions for failure to file the reports; (2) requires that certain licensing boards be audited annually; and (3) requires that licensing board members receive training in specified areas of the law.

[As introduced, this bill was identical to S303, as introduced by Sen. Nesbitt, which is currently in Senate Judiciary I.]

CURRENT LAW:

Currently, there are approximately 55 independent occupational licensing boards authorized by North Carolina statutes. There is no general executive or legislative oversight of licensing boards and wide variance among them in statutory authority and administrative rules.

The Legislative Committee on New Licensing Boards reviews proposals to create new licensing boards and issues an assessment report relating to the need for the board. A bill making such a proposal cannot be considered in a standing committee until it has received an assessment report. However, it is not necessary that the report be favorable for the bill to proceed.

Once enacted, the licensing board is required to comply with the statute which created it and certain general rules for licensing boards contained in Chapter 93B of the General Statutes. Chapter 93B includes provisions applicable to all licensing boards, such as a prohibition against lobbying, being subject to audits by the State Auditor, and filing annual reports with the Secretary of State, the Attorney General, and the Joint Legislative Administrative Procedure Oversight Committee. The law does not authorize the Secretary of State or the Attorney General to review the reports or to exercise any oversight. The law also does not set forth at time by which the reports must be filed or any sanction for failure to file the report.

BILL ANALYSIS:

Section 1 of House Bill 221 amends the law governing the Joint Legislative Administrative Procedure Oversight Committee to give it specific authority to review the activities of occupational licensing boards in order to determine whether the boards are operating in accordance with law and are still needed.

Section 2 amends Chapter 93B to require that annual and financial reports be filed no later than October 1 of each year. This section also provides that failure to comply with the requirements results in a suspension of the board's authority to collect fees until the reports are filed.

Section 3 amends Chapter 93B to direct the State Auditor to conduct audits on licensing boards from time to time to ensure their proper operation. This section also directs each licensing board with an annual budget of at least $50,000 to obtain an annual financial audit.

Section 4 adds a new provision requiring licensing board members to obtain training within six months of the member's initial appointment and at least once every two years thereafter. The board members must be trained on the statutes governing the board and any rules adopted by the board, as well as several State laws applicable to all State governmental entities.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

BACKGROUND: This bill was recommended by the Joint Legislative Administrative Procedure Oversight Committee.

H221-SMRO-5(e1) v1

VISITOR REGISTRATION SHEET

STATE GOV./STATE PERSONNEL — MARCH 8, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ann Wall	Sec. of State
Kelly Braun	NC Board of Barbers
Cady Thomas	NC Assn of Realtors
Lisa Blackburn	Association of County Commissioners
Patrice Roesler	"
Tom Vitaliano	Child Fatality Task Force
Stefanie Kuzdrall	NC Board of Cosmetic Art
Connie Wilder	NC Board of Cosmetic Art
Carson Carmichael	Bailey & Dixon, LLP
Emily Hawthorne	OTOR; NCAP; NCDA
Christina Apperson	Medical Board

VISITOR REGISTRATION SHEET

STATE GOV./STATE PERSONNEL — MARCH 3, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Colleen Kochanek	Chiefs of Police
Glen Allen	Clayton, NC Police Chief
Tom Moss	Garner, NC Police Chief
Elizabeth Biser	DENR
Zeb Alley	NMRS
W H Potter, Jr.	NCDS & NC PTA
Thomas C. Covey, Jr.	NC Dept. of Crime Control & Public Safety
Johanna Reese	DOT
Joey Gardner	DMV License & Theft
Dianne Bradley	DENR - Forestry
Mike Owen	DENR - Forestry

VISITOR REGISTRATION SHEET

STATE GOV/STATE PERSONNEL — MARCH 3, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chip Baggett	NCMS
John Palenchar	NCAHA
Erin Schaubpeck	UNC
Alison Roach	NCDMV
Paula Winkler	NCDMV
Johanna Reese	DOT
Carl Dean	DSP
Robbie Brooks	NCBEEC
Dale Dawson	NCSBEPHFSC
Eddie Caldwell	NC SHERIFFS' ASSN.
John M Fanton	Young Moore & Henderson

VISITOR REGISTRATION SHEET

STATE GOV./STATE PERSONNEL — MARCH 3, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Reed Fountain	Young Moore
Kevin Leonard	WCSR
Amy McConkey	Smith Anderson

Minutes
House Committee on State Government/State Personnel
Tuesday, March 10, 2009

The House Committee on State Government/State Personnel met on Tuesday, March 3, 2009, at 2:00 PM in Room 1425 of the Legislative Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley, and Womble. Chairman Wilkins recognized staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley, and Sergeant-at-Arms staff Fred Hines, Tousiant Avent, James Worth and Rod Finger. He also recognized and thanked Pages Rani Patel of Wake County and Jess Sheleg of Durham County, both sponsored by Speaker Hackney.

Representative Insko was recognized to explain her bill, **House Bill 353, People First**. By motion of Representative Justus, the proposed committee substitute was adopted for discussion. The bill would direct legislative drafting offices and state agencies to use certain respectful references to people with disabilities in the preparation of legislation and rules. Karen Stallings, Executive Director of the Association of Self Advocates, and Julia Leggett, lobbyist for ARK spoke in support of the bill. Representative Mobley then moved for a favorable report as to the committee substitute bill, unfavorable to the original bill, with recommendation that the committee substitute be re-referred to the Committee on Health. The motion passed.

Representative Stam was recognized to explain his bill, **House Bill 190, Medicaid Improper Claims Software/Funds**. The bill directs the Department of Health and Human Services to develop and implement a process for purchasing technologically advanced software to identify and reject improper Medicaid claims before the claims are paid. Following discussion, Representative Killian made a motion that the bill receive a favorable report and be re-referred to the Appropriations Committee. The motion carried

Representative Insko was then recognized to explain her bill, **House Bill 214, State Employee Community Service Days**. This bill would give paid leave of up to five workdays in any 12-month period to State employees in the event of an emergency declared by the Governor. No action was taken on the bill.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

Attachments: House Bills 190, 214 and 353; Summaries of the Bills, and Visitor Sheets

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 353 A BILL TO BE ENTITLED AN ACT TO DIRECT LEGISLATIVE DRAFTING OFFICES AND STATE AGENCIES TO USE CERTAIN RESPECTFUL REFERENCE TO PEOPLE WITH DISABILITIES IN THE PREPARATION OF LEGISLATION AND RULES.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on HEALTH.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 190 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR THE PURCHASE OF ENHANCED SOFTWARE AND SERVICES TO IDENTIFY AND REJECT IMPROPER MEDICAID CLAIMS BEFORE THE CLAIMS HAVE BEEN PAID.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, March 10, 2009
2:00 PM
Room 424 LOB

I. Agenda Items

HB 353	People First Representatives Insko and Earle
HB 190	Medicaid Improper Claims Software/Funds Representatives Stam, Blust and Dollar
HB 214	State Employee Community Service Days Representative Insko

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 353*
PROPOSED COMMITTEE SUBSTITUTE H353-PCS30154-SF-2

Short Title: People First. (Public)

Sponsors:

Referred to:

March 2, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT LEGISLATIVE DRAFTING OFFICES AND STATE AGENCIES TO USE CERTAIN RESPECTFUL TERMS WHEN REFERENCING PEOPLE WITH DISABILITIES IN THE PREPARATION OF LEGISLATION AND RULES.

Whereas, the General Assembly recognizes that language used in reference to individuals with disabilities shapes and reflects society's attitudes towards people with disabilities; and

Whereas, many of the terms currently used diminish the humanity and natural condition of having a disability; and

Whereas, certain terms are demeaning and create an invisible barrier to inclusion as equal community members; and

Whereas, the General Assembly finds it necessary to clarify preferred language for new and revised laws and rules by requiring the use of terminology that puts the person before the disability; Now, therefore,

The General Assembly of North Carolina enacts:

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

"**§ 120-32.04. Preferred drafting language; people with disabilities.**

(a) The General Assembly directs the Legislative Services Office to avoid all references to the terms in Column A below. Drafters shall replace the terms listed in Column A with the terms listed in Column B in any new statute or resolution and change those terms listed in Column A to the terms in Column B in drafts for any existing statute as those statutes are amended for other reasons. This section does not apply where a reference to a word or phrase in Column A is required by federal law or regulation.

Column A	Column B
Handicapped	People with disabilities
Mentally retarded	Intellectual disability
Afflicted with	Someone who has/had
Crippled	Physical disability
Mentally disabled	Mental illness

(b) The Legislative Services Office shall draft statutes and resolutions to avoid language that:

(1) Implies that the person as a whole is disabled, such as the mentally ill or the learning disabled;

(2) Equates persons with their condition, such as epileptics, autistics, or quadriplegics;
(3) Has negative overtones, such as afflicted with cerebral palsy, suffering from multiple sclerosis, confined to a wheelchair or wheelchair bound; or
(4) Is regarded as derogatory or demeaning, such as handicapped or mentally deficient.

The Legislative Services Office shall replace language that is perceived to be disrespectful by referring to persons with disabilities as persons first where appropriate.

(c) No statute or resolution is invalid because it does not comply with this section."

SECTION 2. Part 2 of Article 2A of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-21.6A. Preferred drafting language; people with disabilities.**

(a) The General Assembly directs all agencies adopting rules to avoid all references to the terms in Column A below. Drafters shall replace the terms listed in Column A with the terms listed in Column B in any new rule and change those terms listed in Column A to the terms in Column B in drafts for any existing rule as those rules are amended for other reasons. This section does not apply where a reference to a word or phrase in Column A is required by federal law or regulation or State statute.

Column A	Column B
Handicapped	People with disabilities
Mentally retarded	Intellectual disability
Afflicted with	Someone who has/had
Crippled	Physical disability
Mentally disabled	Mental illness

(b) Agencies shall draft rules to avoid language that:
(1) Implies that the person as a whole is disabled, such as the mentally ill or the learning disabled;
(2) Equates persons with their condition, such as epileptics, autistics, or quadriplegics;
(3) Has negative overtones, such as afflicted with cerebral palsy, suffering from multiple sclerosis, confined to a wheelchair or wheelchair bound; or
(4) Is regarded as derogatory or demeaning, such as handicapped or mentally deficient.

Agencies shall replace language that is perceived to be disrespectful by referring to persons with disabilities as persons first where appropriate.

(c) No rule is invalid because it does not comply with this section."

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

HOUSE BILL 353:
People First

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Health	**Date:**	March 10, 2009
Introduced by:	Reps. Insko, Earle	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	PCS to the First Edition H353-CSSF-2[v.4]		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 353 would clarify preferred language for new and revised laws and rules by requiring the use of respectful terminology that recognizes an individual first as a person before referencing that person's disability. The PCS would direct the Legislative Services Office and State agencies to avoid all references to certain terms and would require bill drafters and agencies drafting rules to use or replace certain terms perceived as demeaning with other specified terms when referring to people with disabilities, unless a particular word or phrase is required by federal law or regulation. No statute, resolution or rule would be invalid because it does not comply with these changes.***

The PCS makes technical and clarifying changes.

[As introduced, this bill was identical to S208, as introduced by Sen. Dorsett, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS: The PCS to House Bill 353 would add a new section (G.S. 120-32.04) to the statutes governing the Legislative Services Commission and a new section (G.S. 150B-21.6A) to the Administrative Procedure Act. The terms or phrases in Column B would replace the terms or phrases in Column A when new statutes, resolutions or rules are drafted and when existing statutes and rules are amended for other reasons.

New statutes, resolutions or rules would be drafted to avoid language that implies that a person as a whole is disabled, equates people with their condition, has negative overtones, or is regarded as derogatory or demeaning. Also, as existing statues and rules are amended any language that is perceived to be disrespectful would be replaced.

EFFECTIVE DATE: This act would become effective when it becomes law.

H353-SMSF-7(e1) v6

HOUSE BILL 353*

Short Title:	People First.	(Public)
Sponsors:	Representatives Insko, Earle (Primary Sponsors); M. Alexander, Harrison, and Wainwright.	
Referred to:	State Government/State Personnel, if favorable, Health.	

March 2, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT LEGISLATIVE DRAFTING OFFICES AND STATE AGENCIES TO USE CERTAIN RESPECTFUL REFERENCE TO PEOPLE WITH DISABILITIES IN THE PREPARATION OF LEGISLATION AND RULES.

Whereas, the General Assembly recognizes that language used in reference to individuals with disabilities shapes and reflects society's attitudes towards people with disabilities; and

Whereas, many of the terms currently used diminish the humanity and natural condition of having a disability; and

Whereas, certain terms are demeaning and create an invisible barrier to inclusion as equal community members; and

Whereas, the General Assembly finds it necessary to clarify preferred language for new and revised laws and rules by requiring the use of terminology that puts the person before the disability; Now, therefore,

The General Assembly of North Carolina enacts:

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

"**§ 120-32.04. People first in drafting.**

(a) The General Assembly directs the Legislative Services Office to avoid all references to the terms in Column A below. Drafters shall replace the terms referenced in Column A with the terms listed in Column B in any new statute or resolution, and change those references in drafts for any existing statute as those statutes are amended for other reasons. This section does not apply where a reference to a word or phrase in Column A is required by federal law or regulation.

Column A	Column B
Handicapped	People with disabilities
Mentally retarded	Intellectual disability
Afflicted with	Someone who has/had
Crippled	Physical disability
Mentally disabled	Mental illness

(b) The Legislative Services Office is directed in drafting statutes and resolutions to avoid language that implies that the person as a whole is disabled (e.g., the mentally ill or the learning disabled), equates persons with their condition (e.g., epileptics, autistics, or quadriplegics), has negative overtones (e.g., afflicted with cerebral palsy, suffering from multiple sclerosis, confined to a wheelchair or wheelchair bound), or is regarded as derogatory

or demeaning (e.g., handicapped or mentally deficient), and replace nonrespectful language by referring to persons with disabilities as persons first where appropriate.

(c) No statute or resolution is invalid because it does not comply with this section."

SECTION 2. Part 2 of Article 2A of Chapter 150B of the General Statutes is amended by adding a new section to read:

"**§ 150B-21.6A. People first in drafting.**

(a) The General Assembly directs all agencies adopting rules to avoid all references to the terms in Column A below. Drafters shall replace the terms referenced in Column A with the terms listed in Column B in any new rule, and change those references in drafts for any existing rule as those rules are amended for other reasons. This section does not apply where a reference to a word or phrase in Column A is required by federal law or regulation or State statute.

Column A	Column B
Handicapped	People with disabilities
Mentally retarded	Intellectual disability
Afflicted with	Someone who has/had
Crippled	Physical disability
Mentally disabled	Mental illness

(b) Agencies are directed in drafting rules to avoid language that implies that the person as a whole is disabled (e.g., the mentally ill or the learning disabled), equates persons with their condition (e.g., epileptics, autistics or quadriplegics), has negative overtones (e.g., afflicted with cerebral palsy, suffering from multiple sclerosis, confined to a wheelchair or wheelchair bound), or is regarded as derogatory or demeaning (e.g., handicapped or mentally deficient), and replace nonrespectful language by referring to persons with disabilities as persons first where appropriate.

(c) No rule is invalid because it does not comply with this section."

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

HOUSE BILL 190

Short Title:	Medicaid Improper Claims Software/Funds.	(Public)
Sponsors:	Representatives Stam, Blust, Dollar (Primary Sponsors); Blackwood, Dockham, Hurley, Justice, Moore, Neumann, Starnes, and Wiley.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR THE PURCHASE OF ENHANCED SOFTWARE AND SERVICES TO IDENTIFY AND REJECT IMPROPER MEDICAID CLAIMS BEFORE THE CLAIMS HAVE BEEN PAID.

Whereas, North Carolina's Medical Assistance Program (Medicaid) has an annual budget that includes three billion dollars ($3,000,000,000) annually in State funding; and

Whereas, the North Carolina Department of Health and Human Services, Division of Medical Assistance, has a Program Integrity Section whose primary responsibility is to ensure the efficacy of payments made to providers on behalf of eligible participants through eligibility verification, third-party liability, and monitoring for fraud, waste, and abuse by both providers and beneficiaries; and

Whereas, although the current Medicaid claims processing system includes a number of edits and audits that check for common errors and anomalies, modern technological advancements allow for much more robust data analysis than is currently incorporated into the current system; and

Whereas, the capability for the system to go beyond basic edits and audits will allow detection of activities that were previously very difficult to identify and thereby result in significant savings over what are achieved under the current system; and

Whereas, savings will be achieved when improper claims can be identified before they are paid, thereby avoiding the cost of recovering the payment; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Medical Assistance, shall develop and implement a process to purchase technologically advanced software and services to improve the identification and rejection of improper Medicaid payments before payment is made to the provider. If funds are needed to develop and implement the process, the Department may use funds available for the 2008-2009 fiscal year for this purpose.

SECTION 2. There is appropriated from the General Fund to the Department of Health and Human Services, Division of Medical Assistance, the sum of five million dollars ($5,000,000) for the 2009-2010 fiscal year, and the sum of five million dollars ($5,000,000) for the 2010-2011 fiscal year. These funds shall be used to purchase software and services that will implement a more comprehensive, robust, and technologically advanced improper payments identification program that will reject improper claims before they are paid. In identifying the software and services, the Department shall ensure that funds appropriated for this purpose shall include all of the following:

(1) Identification and rejection of improper claims before the claims are paid.
(2) Initial data analysis and implementation.
(3) Fully operational MMIS integration based on the December 2008 contract.
(4) Automated integration of analysis results of claims experience for edits and audits during initial claims screening.
(5) Hardware and infrastructure necessary to implement the software.
(6) Software licensing.
(7) Additional data analyst and investigate resources.
(8) Professional services and consulting.
(9) Staff training.

SECTION 3. Not later than October 1, 2009, the Department of Health and Human Services shall report to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division on its progress in identifying software, the implementation date, and other relevant information pertaining to the sufficiency of the appropriation and the anticipated savings from implementation of the software program.

SECTION 4. Sections 2 and 3 of this act become effective July 1, 2009. The remainder of this act is effective when it becomes law.

HOUSE BILL 190:
Medicaid Improper Claims Software/Funds

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	March 9, 2009
Introduced by:	Reps. Stam, Blust, Dollar	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	First Edition		Committee Counsel

SUMMARY: ***House Bill 190 directs the Department of Health and Human Services, Division of Medical Assistance to develop and implement a process for purchasing technologically advanced software to identify and reject improper Medicaid claims before the claims are paid. The bill also appropriates $5,000,000 in each of the next two fiscal years to purchase the software.***

CURRENT LAW:

Currently, the Division of Medical Assistance (DMA) includes a Program Integrity Section. The primary mission of this section is to ensure that Medicaid payments are accurate and that fraud, waste, or abuses are identified. During the 2006 fiscal year, the Program Integrity Section saved, recovered, or avoided North Carolina Medicaid costs of more than 1.1 billion dollars.

BILL ANALYSIS:

House Bill 190 directs the Department of Health and Human Services Division of Medical Assistance to develop and implement a process to purchase software and services capable of identifying and rejecting improper Medicaid payments before the payments are made. The Department is directed to accomplish this using available funds from the 2008-2009 fiscal year

The bill further appropriates from the General Fund the sum of $5 million in each of the next two fiscal years to purchase software and services that will be capable of rejecting improper claims before they are paid. The Department is also directed to insure that the funds are used to accomplish a list of other purposes related to improving the technological capabilities of DMA.

Finally, the bill directs the Department to report to the Appropriation subcommittees on Health and Human Services and the Fiscal Research Division by October 1, 2009, on its progress in identifying the software and the sufficiency of the appropriation and anticipated savings from implementation of the software program.

EFFECTIVE DATE: Sections 2 and 3 of the act become effective July 1, 2009. The remainder of the act is effective when it becomes law.

1190-SMRO-7(e1) v1

VISITOR REGISTRATION SHEET

State Govt/State Personnel — 3-10-09

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Annalicse Dolph	DRNC
Jim Stegall	UCPS
Paula Cox Fishman	volunteer advocate for DD
[illegible]	BCBSNC
[illegible] Tilson	NCHA
C Brockett	NCSBA
[illegible]	[illegible]
Kristi Hupp	NCHCFA
Amy McConkey	Smith Anderson
[illegible]	UNC-TV
[illegible]	[illegible]

VISITOR REGISTRATION SHEET

State Govt / State Personnel — 3-10-09

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
CHARLES W. SCHAEFER House Bill 86	MULTIPLE USE TRAILS TASK FORCE ivanhoect@hotmail.com
DAVID RICE	MANNING FULTON
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
[illegible] MASON	NCACC
Penny Griffin	School of Gov.
TRACY GOLVARD	AHHC
Emilea McLean	Intern - Rep. Verla Insko
TARA LARSON	DMA - DHHS
Julia Leggett	The Arc of NC
Molly Diggins	Sierra Club
Louise Fisher	Volunteer Advocate for the Mentally Ill

VISITOR REGISTRATION SHEET

State Govt / State Personnel — 3-10-09

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
[signature]	DHHS
Pat Hans	SSD Wilkes
Joe Lanier	SSD Wilkes
[signature]	MWC
[signature]	NCMS
Patrick Buffkin	NMRS
[signature]	The Insider
David Booth	MWC

SPEAKERS SIGN-IN-SHEET

STATE GOVERNMENT
STATE PERSONNEL — 3-10-09

Name of Committee — Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
~~Karen Stallings~~	Association of S.E. Advocates
Julia Leggett	The Arc of North Carolina

Minutes
House Committee on State Government/State Personnel
Tuesday, March 24, 2009

The House Committee on State Government/State Personnel met on Tuesday, March 24, 2009, at 2:00 PM in Room 424 of the Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley, Womble and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines, Toussant Avent, Gerald Perry and Henry Worth. Pages for the meeting were Emily Scott-Cruz of Henderson County, sponsored by Representative Carolyn Justus, and Miranda Salser of Catawba County and Dominique Murray of Moore County, both sponsored by Speaker Hackney.

Representative Insko was recognized to explain her bill, **House 214, State Employee Community Service Days.** By motion of Representative Sutton, the Proposed Committee Substitute was adopted for discussion. Mr. Mike Sprayberry of the NC Department of Emergency Management spoke on the bill and agreed with the changes being discussed. By motion of Representative Wiley, the amendments were approved. Representative Sutton then moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill and recommendation that the committee substitute bill be re-referred to the Committee on Appropriations. The motion passed.

Representative Spear was asked to explain his bill, **House Bill 628, Aquarium Satellite Areas Funding.** A technical amendment was offered by Representative Harrell and by motion of Representative Yongue was adopted for enrollment into a committee substitute bill. Representative Sutton then moved that the committee substitute bill receive a favorable report, with an unfavorable report as to the original bill, and recommendation that the committee substitute be re-referred to the Committee on Appropriations. The motion carried.

Representative Deborah Ross was recognized to explain her bill, **House Bill 115, Joint DV Committee/Recommendations.** By motion of Representative Womble, the proposed committee substitute was adopted for discussion. Representative Killian offered a motion that the committee substitute bill receive a favorable report, unfavorable to the original bill, with recommendation that the committee substitute be re-referred to the Committee on Judiciary I.

Chairman Wilkins called on Representative Hurley to explain her bill, **House Bill 473, Magistrates Can Carry Gun in Courthouse.** Following discussion of the bill, Representative Burr made a motion that the bill be given a favorable report. The motion carried.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

Attachments:
House Bills House Bills 214, 628, 115 and 473
Summaries of the Bills
Visitor Registration Sheet

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 214 A BILL TO BE ENTITLED AN ACT PROVIDING STATE EMPLOYEES WITH UP TO FIVE DAYS OF PAID COMMUNITY SERVICE LEAVE WHEN VOLUNTEERING THEIR SERVICES IN THE EVENT OF EMERGENCIES DECLARED BY THE GOVERNOR.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 628 . A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO EXPEND EXISTING MONEYS FOR CAPITAL IMPROVEMENT PROJECTS AT NORTH CAROLINA AQUARIUM SATELLITE AREAS.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 115 A BILL TO BE ENTITLED AN ACT TO RENAME THE NORTH CAROLINA COUNCIL FOR WOMEN/DOMESTIC VIOLENCE COMMISSION AND CLARIFY ITS ROLE AND RESPONSIBILITIES, TO EXPAND THE ROLE OF THE NORTH CAROLINA COUNCIL FOR WOMEN AND DESIGNATE THE QUALIFICATIONS FOR MEMBERSHIP, TO REVISE THE MEMBERSHIP AND STAFFING OF THE NORTH CAROLINA DOMESTIC VIOLENCE COMMISSION, TO AMEND THE PROCEDURE FOR OBTAINING A DOMESTIC VIOLENCE PROTECTIVE ORDER, TO SUPPORT A STATEWIDE DOMESTIC VIOLENCE PROTECTIVE ORDER NOTIFICATION SYSTEM AND INVESTIGATE THE COSTS, AND TO STUDY STATE OVERSIGHT AND COORDINATION OF SERVICES FOR VICTIMS OF SEXUAL VIOLENCE, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY I.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 473 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A MAGISTRATE WHO HAS A CONCEALED HANDGUN PERMIT MAY CARRY OR POSSESS A CONCEALED HANDGUN WHILE IN A COURTHOUSE TO DISCHARGE OFFICIAL DUTIES.

☒ 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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, March 24, 2009
2:00 PM
Room 424 LOB

I. Agenda Items

HB 214 — State Employee Community Service Days
Representative Insko

HB 628 — Aquarium Satellite Areas Funding
Representatives Spear and Owens

HB 115 — Joint DV Committee/Recommendations
Representatives McLawhorn, Ross, Farmer-Butterfield, and Johnson

HB 473 — Magistrate Can Carry Gun in Courthouse
Representatives Hurley, Justus, Spear and Sutton

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 214
PROPOSED COMMITTEE SUBSTITUTE H214-PCS70229-SH-9

Short Title: State Employee Community Service Days. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT PROVIDING STATE EMPLOYEES WITH UP TO FIVE DAYS OF PAID COMMUNITY SERVICE LEAVE WHEN VOLUNTEERING THEIR SERVICES IN THE EVENT OF EMERGENCIES DECLARED BY THE GOVERNOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-32 reads as rewritten:

"**§ 166A-32. Disaster and community service volunteer leave.**

(a) An employee of a State agency who is a disaster service volunteer of the American Red Cross may be granted leave from his or her work with pay for a time not to exceed 15 work days in any 12-month period to participate in specialized disaster relief services for the American Red Cross. To be granted leave, the request for the services of that employee must come from the American Red Cross. The decision to grant the employee leave rests in the sole discretion of the employing State agency based on the work needs of that agency. Employees granted leave pursuant to this Article shall not lose seniority, pay, vacation time, sick time, or earned overtime accumulation. The State agency shall compensate an employee granted leave under this ~~Article~~ subsection at the regular rate of pay for those regular work hours during which the employee is absent from his work. Leave under this ~~Article~~ subsection shall be granted only for services related to a disaster occurring within the United States.

The State of North Carolina shall not be liable for workers compensation claims arising from accident or injury while the State employee is on assignment as a disaster service volunteer for the American Red Cross. Duties performed while on disaster leave shall not be considered to be a work assignment by a state agency. The employee is granted leave based on the need for the employee's area of expertise. Job functions although similar or related are performed on behalf of and for the benefit of the American Red Cross.

(b) An employee of a State agency who volunteers in the event of an emergency declared by the Governor may be granted leave from his or her work with pay for a time not to exceed five workdays in any 12-month period to participate in community services activities associated with an emergency declared by the Governor. The community services activities associated with an emergency declared by the Governor must be performed with the consent and under the supervision or authority of a nonprofit, nonpartisan community service organization. For purposes of this subsection, a community service organization is a human service organization licensed or accredited to serve citizens with special needs, or a charitable organization designated as such under section 501(c)3 of the Internal Revenue Code and that provides disaster relief or response services. The decision to grant the employee leave rests in

the sole discretion of the employing State agency based on the work needs of that agency. Employees granted leave pursuant to this subsection shall not lose seniority, pay, vacation time, sick time, or earned overtime accumulation. The State agency shall compensate an employee granted leave under this subsection at the regular rate of pay for those regular work hours during which the employee is absent from his or her work. Leave under this subsection must be preapproved and shall be granted only for services related to a disaster occurring within North Carolina. Upon request, the employee shall assist the employing State agency in verifying the community service participation by obtaining a written statement to document the employee's volunteer participation.

The State of North Carolina shall not be liable for workers' compensation claims arising from accident or injury while the State employee is on leave pursuant to this subsection. Duties performed while on the leave shall not be considered to be a work assignment by a State agency."

SECTION 2. The leave granted under this act shall be in addition to any community service leave otherwise granted to State employees. The State Personnel Commission may adopt rules pursuant to this act.

SECTION 3. This act becomes effective July 1, 2009.

HOUSE BILL 214:
State Employee Community Service Days

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	March 24, 2009
Introduced by:	Rep. Insko	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition H214-CSSH-9		

SUMMARY: The PCS for House Bill 214 gives paid leave of up to five workdays in any 12-month period to State employees who volunteer in the event of an emergency declared by the Governor.

CURRENT LAW: *Disaster Service Volunteer Leave Act* - Chapter 166A pertains to Emergency Management and Article 3 of that Chapter contains the Disaster Service Volunteer Leave Act. The provisions of this Article were enacted by S.L. 1993-13, and amended by Section 6, S.L 2001-508, to provide for limited leave with pay for State employees who are disaster volunteers. Currently, disaster service leave is limited to an employee of a State agency who is a disaster service volunteer of the American Red Cross. The employee may be granted leave from work with pay, for a time not to exceed 15 work days in any 12-month period, to participate in specialized disaster relief services for the American Red Cross. The request for the services of the employee must come from the American Red Cross. However, the decision to grant the employee leave rests in the sole discretion of the employing State agency. Under the current law, "disaster" means a disaster designated at Level III or higher in the American National Red Cross Regulations and Procedures.

Community Service Leave - The State Personnel Manual contains a policy on Community Service Leave which may be granted to: parents for child involvement in the schools, any employee for volunteer activity in the schools or in a Community Services Organization, or any employee for tutoring and mentoring in the schools. For purposes of the policy, a Community Service Organization is a "non-profit, non-partisan community organization which is designated as a IRS Code 501(c)(3) agency, or a human service organization licensed or accredited to serve citizens with special needs including children, youth, and the elderly." Under the policy, 24 hours of paid leave is credited to each full-time employee on January 1 of each year. Agencies may allow an employee more than 24 hours to perform significant community service activities with provisions for the employee to make up the time, and employees that mentor or tutor may be granted more time. The policy also provides special guidelines for emergency services, blood and bone marrow donorship, and for a disaster service volunteer with the American Red Cross. With regard to emergency services, agency heads are authorized to establish a policy providing time off with pay to employees participating in volunteer emergency and rescue services and for determining that a bonafide need exists. A bonafide need is defined as real or imminent danger to life or property.

BILL ANALYSIS: The PCS for House Bill 214 amends G.S. 166A-32 to expand the title of the section to "Disaster and community service volunteer leave." The new subsection created by the bill allows an employee of a State agency to volunteer to participate in community services activities during an emergency declared by the Governor and be granted leave from work with pay for a time not to exceed five (5) workdays in any 12-month period. The leave must be used to participate in community services activities associated with an emergency declared by the Governor. The community services activities must be performed with the consent and under the supervision or authority of a non-profit, non-partisan community service organization. A community service organization is a human service

organization licensed or accredited to serve citizens with special needs, or a charitable organization designated as such under Section 501(c) 3 of the Internal Revenue Code and that provides disaster relief or response services. (This definition of a community service organization generally mirrors what the State Personnel Commission (SPC) currently uses. The following are some examples of human services organizations: alcohol & drug treatment centers, nursing care facilities, inpatient rehab., intermediate care facilities, and developmental disability programs among others.)

The employing State agency has sole discretion to grant the employee leave. Leave must be preapproved and granted only for services related to a disaster occurring within the United States. Upon request, the employee shall assist the State agency in verifying the community service participation by obtaining a written statement to document the employee's volunteer participation.

State agency is defined in G.S. 166A-31 to mean and include "all departments, institutions, commissions, committees, boards, divisions, bureaus, officers, and officials of the State, including those within the legislative and judicial branches of State government."

Employees granted leave under this provision will not lose seniority, pay, vacation time, sick time, or earned accumulated overtime. The State agency must compensate an employee granted leave under this provision at the regular rate of pay for those regular work hours during which the employee is absent from work. The State of North Carolina is not liable for workers' compensation claims arising from accident or injury while the State employee is on leave and duties performed during this leave are not considered a work assignment by a State agency.

Section 2 of the PCS specifies that the leave granted under this act is in addition to any community service leave otherwise granted to State employees. This is consistent with the way the Office of State Personnel implements the 15 days of leave for the Red Cross under subsection (a). This section also allows the State Personnel Commission to adopt rules pursuant to the act. (The State Personnel Commission does cover subsection (a) leave in their policy.)

This act becomes effective July 1, 2009.

COMPARISON: G.S. 166A-32(a) to G.S. 166A-32(b)

	G.S. 166A-32(a)	G.S. 166A-32(b)
Situation	Employee is a disaster service volunteer of the American Red Cross	Employee volunteers in the event of an emergency declared by the Governor
Nature of Request	Request must come from the Red Cross Leave granted only for services related to a disaster occurring within the U.S.	Emergency must be declared by the Governor Leave must be preapproved and granted for services related to a disaster within the US.
Type of Volunteer Services Provided by Employee	Participate in specialized disaster relief services for the American Red Cross	Community services activities performed with the consent and under the supervision or authority of a non-profit, non-partisan community service organization.
Amount of Time Allowed	Not to exceed 15 work days in any 12-month period	Not to exceed 5 workdays in any 12-month period
Approval	Decision to grant leave rests with employing State agency	Decision to grant leave rests with employing State agency
Pay, Other Benefits	Employee compensated at regular rate of pay for regular work hours, do not lose seniority, pay, vacation time, sick time, or earned overtime accumulation	Employee compensated at regular rate of pay for regular work hours, do not lose seniority, pay, vacation time, sick time, or earned overtime accumulation

H214-SMSH-38(CSSH-9) v1

HOUSE BILL 214

Short Title:	State Employee Community Service Days.	(Public)
Sponsors:	Representatives Insko; Adams, K. Alexander, Cotham, Fisher, E. Floyd, Harrison, Hughes, Hurley, Jones, Lucas, Luebke, Randleman, Tarleton, and Wainwright.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

February 19, 2009

A BILL TO BE ENTITLED

AN ACT PROVIDING STATE EMPLOYEES WITH UP TO FIVE DAYS OF PAID COMMUNITY SERVICE LEAVE WHEN VOLUNTEERING THEIR SERVICES IN THE EVENT OF EMERGENCIES DECLARED BY THE GOVERNOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-32 reads as rewritten:

"**§ 166A-32. Disaster and community service volunteer leave.**

(a) An employee of a State agency who is a disaster service volunteer of the American Red Cross may be granted leave from his or her work with pay for a time not to exceed 15 work days in any 12-month period to participate in specialized disaster relief services for the American Red Cross. To be granted leave, the request for the services of that employee must come from the American Red Cross. The decision to grant the employee leave rests in the sole discretion of the employing State agency based on the work needs of that agency. Employees granted leave pursuant to this Article shall not lose seniority, pay, vacation time, sick time, or earned overtime accumulation. The State agency shall compensate an employee granted leave under this ~~Article~~ subsection at the regular rate of pay for those regular work hours during which the employee is absent from his work. Leave under this ~~Article~~ subsection shall be granted only for services related to a disaster occurring within the United States.

The State of North Carolina shall not be liable for workers compensation claims arising from accident or injury while the State employee is on assignment as a disaster service volunteer for the American Red Cross. Duties performed while on disaster leave shall not be considered to be a work assignment by a state agency. The employee is granted leave based on the need for the employee's area of expertise. Job functions although similar or related are performed on behalf of and for the benefit of the American Red Cross.

(b) An employee of a State agency who volunteers in the event of an emergency declared by the Governor may be granted leave from his or her work with pay for a time not to exceed five workdays in any 12-month period to participate in community services activities associated with an emergency declared by the Governor. The decision to grant the employee leave rests in the sole discretion of the employing State agency based on the work needs of that agency. Employees granted leave pursuant to this subsection shall not lose seniority, pay, vacation time, sick time, or earned overtime accumulation. The State agency shall compensate an employee granted leave under this subsection at the regular rate of pay for those regular work hours during which the employee is absent from his or her work. Leave under this subsection must be preapproved and shall be granted only for services related to a disaster occurring within the United States. Upon request, the employee shall assist the employing State

agency in verifying the community service participation by obtaining a written statement to document the employee's volunteer participation.

The State of North Carolina shall not be liable for workers' compensation claims arising from accident or injury while the State employee is on leave pursuant to this subsection. Duties performed while on the leave shall not be considered to be a work assignment by a State agency."

SECTION 2. This act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 628
PROPOSED COMMITTEE SUBSTITUTE H628-PCS70230-RO-8

Short Title: Aquarium Satellite Areas Funding. (Public)

Sponsors:

Referred to:

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO EXPEND EXISTING MONEYS FOR CAPITAL IMPROVEMENT PROJECTS AT NORTH CAROLINA AQUARIUM SATELLITE AREAS.

The General Assembly of North Carolina enacts:

Whereas, the unemployment rate for North Carolina reached 8.7% in December 2008, the highest rate in more than 25 years; and

Whereas, the unemployment rates for December 2008 in Beaufort, Bertie, Chowan, Dare, Hyde, Martin, Perquimans, Tyrrell, and Washington Counties are all above the statewide average; and

Whereas, construction of the North Carolina Aquarium Pier at Nags Head will provide 555 on-site jobs and 1,250 off-site jobs and a benefit of more than $14,000,000 to North Carolina's economy; and

Whereas, the North Carolina Aquarium Pier at Nags Head will serve as a significant demonstration of building features and construction techniques for reducing environmental impacts for public buildings in the coastal region of North Carolina, including cisterns, solar panels, and wind turbines for on-site clean power generation, and on-site containment and treatment of stormwater runoff; Now, therefore,

SECTION 1. The General Assembly authorizes capital projects related to the construction of the North Carolina Aquarium Pier at Nags Head by the Aquariums Division of the Department of Environment and Natural Resources to be funded with receipts or from other non-General Fund sources and at a cost in aggregate for all projects not to exceed twenty-five million dollars ($25,000,000).

SECTION 2. Funds transferred to the Department of Environment and Natural Resources by Section 21.14 of S.L. 2006-66 for a stormwater pilot project to clean up State-maintained ocean outfalls and associated outlets and not used for that purpose shall be transferred to the North Carolina Aquariums Fund.

SECTION 3. Should United States Public Law 111-005, the American Recovery and Reinvestment Act of 2009 (the Federal Act), provide funding for capital improvement projects described in Section 1 of this act, then those funds shall be used for the capital improvement projects before the funds transferred by Section 2 of this act.

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

HOUSE BILL 628:
Aquarium Satellite Areas Funding

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	March 24, 2009
Introduced by:	Reps. Spear, Owens	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	First Edition		

SUMMARY: House Bill 628 authorizes capital improvement projects related to the construction of the North Carolina Aquarium Pier at Nags Head to be funded with receipts or other non-General Fund sources up to a maximum aggregate cost of $25,000,000. The bill also directs the transfer of any remaining funds not used by DENR for a stormwater pilot project to the NC Aquarium Fund.

CURRENT LAW:

The North Carolina Aquarium Fund is a special nonreverting fund established to provide for the repair, renovation, expansion, maintenance, educational exhibit construction, operational expenses, and other expenses of the aquariums, including the financing of expansions of aquariums and other relevant satellite areas, and to match private funds that are raised for these purposes. The Secretary of DENR is authorized to set fees for the aquariums and all entrance fee receipts are credited to the Fund.

Section 21.14 of S.L. 2006-66 directed that $15,000,000 be transferred from the Department of Transportation to DENR during the 2006-2007 fiscal year for a stormwater pilot project.

Based on information from DENR, it appears that these funds have not yet been used.

BILL ANALYSIS:

Section 1 of House Bill 628 authorizes capital improvement projects related to the construction of the North Carolina Aquarium Pier at Nags Head by the Aquarium Division of DENR. The projects are to be funded with receipts or other non-General Fund sources. The maximum aggregate cost for all projects is $25,000,000.

Section 2 of the bill directs the transfer of any funds remaining from the 2006 provision which have not been used for the stormwater pilot project to the North Carolina Aquarium Fund.

Section 3 provides that if funds are made available from the federal stimulus program for projects such as those related to the Aquarium Pier, then the federal funds shall be used before the funds which were transferred from DENR to the Aquarium Fund by Section 2 of the bill.

EFFECTIVE DATE: This act is effective when it becomes law.

'628-SMRO-16(e1) v1

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 628

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

H628-ARO-4 [v.1]

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

Date _____ ,2009

Representative _____

moves to amend the bill on page 1, line 31, by deleting the phrase "Section 1" and substituting the phrase "Section 2".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 628

Short Title:	Aquarium Satellite Areas Funding.	(Public)
Sponsors:	Representatives Spear, Owens (Primary Sponsors); and McComas.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO EXPEND EXISTING MONEYS FOR CAPITAL IMPROVEMENT PROJECTS AT NORTH CAROLINA AQUARIUM SATELLITE AREAS.

The General Assembly of North Carolina enacts:

Whereas, the unemployment rate for North Carolina reached 8.7% in December 2008, the highest rate in more than 25 years; and

Whereas, the unemployment rates for December 2008 in Beaufort, Bertie, Chowan, Dare, Hyde, Martin, Perquimans, Tyrrell, and Washington Counties are all above the statewide average; and

Whereas, construction of the North Carolina Aquarium Pier at Nags Head will provide 555 on-site jobs and 1,250 off-site jobs and a benefit of more than $14,000,000 to North Carolina's economy; and

Whereas, the North Carolina Aquarium Pier at Nags Head will serve as a significant demonstration of building features and construction techniques for reducing environmental impacts for public buildings in the coastal region of North Carolina, including cisterns, solar panels, and wind turbines for on-site clean power generation, and on-site containment and treatment of stormwater runoff; Now, therefore,

SECTION 1. The General Assembly authorizes capital projects related to the construction of the North Carolina Aquarium Pier at Nags Head by the Aquariums Division of the Department of Environment and Natural Resources to be funded with receipts or from other non-General Fund sources and at a cost in aggregate for all projects not to exceed twenty-five million dollars ($25,000,000).

SECTION 2. Funds transferred to the Department of Natural Resources by Section 21.14 of Session Law 2006-66 for a stormwater pilot project to clean up State-maintained ocean outfalls and associated outlets and not used for that purpose shall be transferred to the North Carolina Aquariums Fund.

SECTION 3. Should United States Public Law 111-005, the American Recovery and Reinvestment Act of 2009 (the Federal Act), provide funding for capital improvement projects described in Section 1 of this act, then those funds shall be used for the capital improvement projects before the funds transferred by Section 1 of this act.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 115*
PROPOSED COMMITTEE SUBSTITUTE H115-PCS50288-SF-3

Short Title: Joint DV Committee/Recommendations. (Public)

Sponsors:

Referred to:

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO RENAME THE NORTH CAROLINA COUNCIL FOR WOMEN/DOMESTIC VIOLENCE COMMISSION AND CLARIFY ITS ROLE AND RESPONSIBILITIES, TO EXPAND THE ROLE OF THE NORTH CAROLINA COUNCIL FOR WOMEN AND DESIGNATE THE QUALIFICATIONS FOR MEMBERSHIP, TO REVISE THE MEMBERSHIP AND STAFFING OF THE NORTH CAROLINA DOMESTIC VIOLENCE COMMISSION,. TO AMEND THE PROCEDURE FOR OBTAINING A DOMESTIC VIOLENCE PROTECTIVE ORDER, TO SUPPORT A STATEWIDE DOMESTIC VIOLENCE PROTECTIVE ORDER NOTIFICATION SYSTEM AND INVESTIGATE THE COSTS, AND TO STUDY STATE OVERSIGHT AND COORDINATION OF SERVICES FOR VICTIMS OF SEXUAL VIOLENCE, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. The name of the current agency "North Carolina Council for Women/Domestic Violence Commission," located within the Department of Administration, shall be renamed the "North Carolina Center for Women, Families, and Domestic Violence." The successor agency shall have the responsibility of providing staff and administrative support to the North Carolina Council for Women and to the North Carolina Domestic Violence Commission. All responsibilities relating to the administration of State grants, funds, or fees, which have been given by statute, or any other provision of law, to the Department of Administration, North Carolina Council for Women, shall be administered by the North Carolina Center for Women, Families, and Domestic Violence.

SECTION 2. G.S. 143B-393 reads as rewritten:

"**§ 143B-393. North Carolina Council for Women – creation; powers and duties.**

There is hereby created the North Carolina Council for Women of the Department of Administration. The North Carolina Council for Women shall have the following functions and duties:

(1) To advise the Governor, the principal State departments, and the State legislature concerning ~~the education and employment of~~ women in the State of North ~~Carolina; and~~Carolina, including, but not limited to, the following issues:

a. Employment.

b. Education.

c. Health.
d. Pay equity.
e. Domestic violence.
f. Sexual violence.
g. Housing.
h. Child care.

(2) To advise the Secretary of Administration upon any matter the Secretary may refer to it; and

(3) To establish programs for the assistance of displaced homemakers as set forth in Part 10B of this Article."

SECTION 3. G.S. 143B-394 reads as rewritten:

"**§ 143B-394. North Carolina Council for Women – members; selection; quorum; compensation.**

(a) The North Carolina Council for Women of the Department of Administration shall consist of 20 members appointed by the Governor. The initial members of the Council shall be the appointed members of the North Carolina Council for Women, three of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1978. Thirteen additional members shall be appointed in 1977, six of whom shall serve terms expiring June 30, 1978, and seven of whom shall serve terms expiring June 30, 1979. At the ends of the respective terms of office of the initial members of the Council and of the 13 members added in 1977, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. ~~Members of the Council shall be representative of age, sex, ethnic and geographic backgrounds.~~

(b) Members shall be representative of age, sex, and ethnic backgrounds, as well as reflect the geographic and cultural regions of the State. The members shall meet the following criteria:

(1) Two members shall be representative of the educational community with specialized knowledge concerning available secondary and postsecondary education programs.

(2) Two members shall be representative of the medical community with specialized knowledge concerning women's health issues.

(3) One member shall be a representative of a center that is authorized to receive funding from the North Carolina Fund for Displaced Homemakers.

(4) One member shall be an employee of the North Carolina Employment Security Commission.

(5) One member shall be an attorney and member of the North Carolina State Bar who has studied issues relating to women.

(6) One member shall be from the business community.

(7) One member shall be a member of the law enforcement community with specialized knowledge of domestic violence and sexual violence issues.

(8) One member shall be a representative of a linguistic and cultural minority community.

(9) One member shall be a representative of a local service provider that provides services to victims of sexual violence and that is eligible to receive grant funds from the Sexual Assault and Rape Crisis Center Fund.

(10) One member shall be a representative of a local service provider that provides services to victims of domestic violence and is eligible to receive grant funds from the Domestic Violence Center Fund.

(11) One member shall be an academician who is knowledgeable about trends and data relating to women's issues, such as those described in G.S. 143B-393.

(12) One member shall be a representative of a college or university who has educational background and expertise in the field of women's studies.

(13) One member shall be a representative of the North Carolina Child Care Coalition.

(14) Five members from the public at large.

(c) The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(d) The Governor shall designate a member of the Council to serve as chairman at the pleasure of the Governor.

(e) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration."

SECTION 4. The terms of all persons who are members of the North Carolina Council for Women on the effective date of this act shall expire on June 30, 2009. Ten of the 20 appointed successors shall have terms that expire on June 30, 2010, and the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. The remaining 10 of the 20 appointed successors shall have terms that expire on June 30, 2011, and the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify.

SECTION 5. G.S. 143B-394.15 reads as rewritten:

"(c) Membership. – The Commission shall consist of 39 members, who reflect the geographic and cultural regions of the State, as follows:

...

(4) The following persons or their designees, ex officio:

a. The Governor.
b. The Lieutenant Governor.
c. The Attorney General.
d. The Secretary of the Department of Administration.
e. The Secretary of the Department of Crime Control and Public Safety.
f. The Superintendent of Public Instruction.
g. The Secretary of the Department of Correction.
h. The Secretary of the Department of Health and Human Services.
i. The Director of the Office of State Personnel.
j. The ~~Executive Director~~ Chair of the North Carolina Council for Women.
k. The Dean of the School of Government at the University of North Carolina at Chapel Hill.
l. The Chairman of the Governor's Crime Commission.

...

(l) Staffing. – The Secretary of the Department of Administration shall be responsible for staffing the Commission. ~~To that end, the Secretary shall, at a minimum, assign an employee to serve as a Deputy Director within the North Carolina Council for Women whose primary duties shall be to staff the Commission. The person assigned as Deputy Director shall have the education, experience, and any other qualifications necessary for the position.~~"

SECTION 6. G.S. 50B-2(a) reads as rewritten:

"§ 50B-2. **Institution of civil action; motion for emergency relief; temporary orders; temporary custody.**

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. Any action for a domestic violence protective order requires that a separate summons be issued and served. The summons issued pursuant to this Chapter shall require the defendant to answer within 10 days of the date of service. Attachments to the summons shall include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers through the appropriate law enforcement agency where the defendant is to be served. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5."

SECTION 7. The Joint Legislative Committee on Domestic Violence supports the adoption of an automated statewide domestic violence protective order notification system. In order to determine the financial and operational impact of developing the system, the Administrative Office of the Courts, in consultation with the Governor's Crime Commission and the North Carolina Attorney General's Office, shall (i) identify information in available databases relating to civil domestic violence protective orders, criminal no-contact order conditions, and postarrest conditions of release and (ii) determine the financial impact, including personnel costs, for implementing a domestic violence protective order notification system which interfaces with the North Carolina Statewide Automated Victim Assistance Notification System. The Governor's Crime Commission shall report the findings to the Joint Legislative Committee on Domestic Violence and the Fiscal Research Division by July 1, 2009.

SECTION 8. The North Carolina Domestic Violence Commission, in consultation with the North Carolina Coalition Against Domestic Violence and the North Carolina Coalition Against Sexual Assault, shall study the issue of State oversight and coordination of services to victims of sexual violence and whether sexual violence should be included as a focus area of the Commission. The study shall include, but is not limited to, a review of the organization and membership of entities in other states that (i) provide information and recommendations to state legislatures on domestic and sexual violence and (ii) information and services to the public on these issues. The Commission shall report its findings and recommendations to the Joint Legislative Committee on Domestic Violence by July 1, 2009.

SECTION 9. Section 6 of this act is effective for actions or motions filed on or after December 1, 2009. The remainder of this act is effective when it becomes law.

HOUSE BILL 115:
Joint DV Committee/Recommendations

2009-2010 General Assembly

Committee:	House State Government and State Personnel, if favorable, Judiciary I	**Date:**	March 17, 2009
Introduced by:	Reps. McLawhorn, Ross, Farmer-Butterfield, Johnson	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	PCS to First Edition H115-CSSF-3		

SUMMARY: ***The Proposed Committee Substitute (PCS) to House Bill 115 would change the name of the*** **North Carolina Council for Women/Domestic Violence Commission** ***to the*** **North Carolina Center for Women, Families, and Domestic Violence** ***and clarify its responsibilities. The PCS also would (i) expand the role of the North Carolina Council for Women and designate the qualifications for membership, (ii) revise the membership and staffing of the North Carolina Domestic Violence Commission, (iii) amend the procedure for obtaining a domestic violence protective order, (iv) support an automated statewide domestic violence protective order notification system and investigate the costs, and (v) study State oversight and coordination of services for victims of sexual violence.***

The PCS for House Bill 115 is a recommendation of the Joint Legislative Committee on Domestic Violence.

The PCS makes a technical correction to the original bill by replacing the phrase "Rape Crisis and Sexual Assault Center Fund" with the correct phrase "Sexual Assault and Rape Crisis Center Fund".

[As introduced, this bill was identical to S223, as introduced by Sen. Boseman, which is currently in Senate Mental Health & Youth Services.]

CURRENT LAW: **G.S. 143B-393** creates the North Carolina Council for Women of the Department of Administration and sets out its functions and duties. **G.S. 143B-394** provides the composition and selection of members for the North Carolina Council for Women. **G.S. 143B-394.15** establishes the Domestic Violence Commission within the Department of Administration and sets out its purpose and membership. **G.S. 50B-2(a)** governs the filing of civil action alleging acts of domestic violence.

BILL ANALYSIS:

Section 1. The current agency "North Carolina Council for Women/Domestic Violence Commission," located within the Department of Administration, would be renamed the "North Carolina Center for Women, Families, and Domestic Violence." The successor agency would be responsible for providing staff and administrative support to the North Carolina Council for Women and to the North Carolina Domestic Violence Commission. All responsibilities relating to the administration of grants, funds, or fees which have been given by any provision of law to the Department of Administration, North Carolina Council for Women would be administered by the North Carolina Center for Women, Families, and Domestic Violence.

Section 2. One of the functions of the North Carolina Council for Women is to advise the Governor, the principal State departments, and the State legislature concerning the education and employment of women in NC. This bill would expand the Council's advisory functions concerning women in NC to include health, pay equity, domestic violence, sexual violence, housing and child care.

Section 3. The North Carolina Council for Women is made up of 20 members appointed by the Governor. The members must be representative of age, sex, and ethnic backgrounds, as well as reflect the geographic and cultural regions of the State. The PCS to House Bill 115 would provide specific criteria for the Council membership. For example, two members must be representative of the educational community with specialized knowledge concerning available secondary and postsecondary education programs, one member must be an employee of the

North Carolina Employment Security Commission, one member must be a representative of the North Carolina Child Care Coalition, one member must be a member of the law enforcement community with specialized knowledge of domestic violence and sexual violence issues, etc.

Section 4 sets out the terms of the members of the North Carolina Council for Women. The terms for all persons who are members of the Council on the effective date of this act would expire June 30, 2009. Ten of the 20 appointed successors would have terms that would expire June 30, 2010, and the remaining 10 of the 20 appointed successors would have terms that would expire on June 30, 2011. The appointments for all successors would be for two year terms, and all appointees would remain until their successors are appointed and qualify.

Section 5 would amend the statute governing the Domestic Violence Commission by making a technical correction to the list of ex officio members by changing "Executive Director" to "Chair" of the North Carolina Council for Women. Also, the Secretary of the Department of Administration would continue to be responsible for staffing the Domestic Violence Commission but the PCS for House Bill 115 would remove the requirement that the Secretary assign an employee to serve as a Deputy Director with the North Carolina Council for Women to staff the Commission.

Section 6 would amend G.S. 50B-2(a) to provide that any action for a domestic violence protective order would require that a separate summons be issued and served, and that the defendant would be required to answer within 10 days of the date of service. The act would specify what attachments to the summons would be required to be included: the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers through the appropriate law enforcement agency where the defendant is to be served.

Section 7 would require the Administrative Office of the Courts, in consultation with the Governor's Crime Commission and the North Carolina Attorney General's Office to determine the financial and operational impact of developing an automated statewide domestic violence protective order notification system. The Governor's Crime Commission would report the findings to the Joint Legislative Committee on Domestic Violence and the Fiscal Research Division by July 1, 2009.

Section 8 would require the North Carolina Domestic Violence Commission, in consultation with the North Carolina Coalition Against Domestic Violence and the North Carolina Coalition Against Sexual Assault, to study the issue of State oversight and coordination of services to victims of sexual violence and whether sexual violence should be included as a focus area of the Commission. The Commission would report its findings and recommendations to the Joint Legislative Committee on Domestic Violence by July 1, 2009.

EFFECTIVE DATE: Section 6 of the act would become effective for actions or motions filed on or after December 1, 2009. The remainder of the act would become effective when it becomes law.

H115-SMSF-10(CSSF-3) v2

HOUSE BILL 115*

Short Title:	Joint DV Committee/Recommendations.	(Public)
Sponsors:	Representatives McLawhorn, Ross, Farmer-Butterfield, Johnson (Primary Sponsors); M. Alexander, Earle, Faison, Fisher, Harrison, Howard, Hughes, Insko, Lucas, Luebke, McElraft, Underhill, R. Warren, and Weiss.	
Referred to:	State Government and State Personnel, if favorable, Judiciary I.	

February 11, 2009

A BILL TO BE ENTITLED

AN ACT TO RENAME THE NORTH CAROLINA COUNCIL FOR WOMEN/DOMESTIC VIOLENCE COMMISSION AND CLARIFY ITS ROLE AND RESPONSIBILITIES, TO EXPAND THE ROLE OF THE NORTH CAROLINA COUNCIL FOR WOMEN AND DESIGNATE THE QUALIFICATIONS FOR MEMBERSHIP, TO REVISE THE MEMBERSHIP AND STAFFING OF THE NORTH CAROLINA DOMESTIC VIOLENCE COMMISSION, TO AMEND THE PROCEDURE FOR OBTAINING A DOMESTIC VIOLENCE PROTECTIVE ORDER, TO SUPPORT A STATEWIDE DOMESTIC VIOLENCE PROTECTIVE ORDER NOTIFICATION SYSTEM AND INVESTIGATE THE COSTS, AND TO STUDY STATE OVERSIGHT AND COORDINATION OF SERVICES FOR VICTIMS OF SEXUAL VIOLENCE, AS RECOMMENDED BY THE JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE.

The General Assembly of North Carolina enacts:

SECTION 1. The name of the current agency "North Carolina Council For Women/Domestic Violence Commission," located within the Department of Administration, shall be renamed the "North Carolina Center For Women, Families, and Domestic Violence." The successor agency shall have the responsibility of providing staff and administrative support to the North Carolina Council For Women and to the North Carolina Domestic Violence Commission. All responsibilities relating to the administration of State grants, funds, or fees, which have been given by statute, or any other provision of law, to the Department of Administration, North Carolina Council For Women, shall be administered by the North Carolina Center For Women, Families, and Domestic Violence.

SECTION 2. G.S. 143B-393 reads as rewritten:

"**§ 143B-393. North Carolina Council for Women – creation; powers and duties.**

There is hereby created the North Carolina Council for Women of the Department of Administration. The North Carolina Council for Women shall have the following functions and duties:

(1) To advise the Governor, the principal State departments, and the State legislature concerning ~~the education and employment of~~ women in the State of North ~~Carolina; and~~Carolina, including, but not limited to, the following issues:

a. Employment.

b. Education.

c. Health.

d. Pay equity.
e. Domestic violence.
f. Sexual violence.
g. Housing.
h. Child care.

(2) To advise the Secretary of Administration upon any matter the Secretary may refer to it; and

(3) To establish programs for the assistance of displaced homemakers as set forth in Part 10B of this Article."

SECTION 3. G.S. 143B-394 reads as rewritten:

"**§ 143B-394. North Carolina Council for Women – members; selection; quorum; compensation.**

(a) The North Carolina Council for Women of the Department of Administration shall consist of 20 members appointed by the Governor. The initial members of the Council shall be the appointed members of the North Carolina Council for Women, three of whose appointments expire June 30, 1977, and four of whose appointments expire June 30, 1978. Thirteen additional members shall be appointed in 1977, six of whom shall serve terms expiring June 30, 1978, and seven of whom shall serve terms expiring June 30, 1979. At the ends of the respective terms of office of the initial members of the Council and of the 13 members added in 1977, the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. Any appointment to fill a vacancy on the Council created by the resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term. ~~Members of the Council shall be representative of age, sex, ethnic and geographic backgrounds.~~

(b) Members shall be representative of age, sex, and ethnic backgrounds, as well as reflect the geographic and cultural regions of the State. The members shall meet the following criteria:

(1) Two members shall be representative of the educational community with specialized knowledge concerning available secondary and postsecondary education programs.

(2) Two members shall be representative of the medical community with specialized knowledge concerning women's health issues.

(3) One member shall be a representative of a center that is authorized to receive funding from the North Carolina Fund for Displaced Homemakers.

(4) One member shall be an employee of the North Carolina Employment Security Commission.

(5) One member shall be an attorney and member of the North Carolina State Bar who has studied issues relating to women.

(6) One member shall be from the business community.

(7) One member shall be a member of the law enforcement community with specialized knowledge of domestic violence and sexual violence issues.

(8) One member shall be a representative of a linguistic and cultural minority community.

(9) One member shall be a representative of a local service provider that provides services to victims of sexual violence and that is eligible to receive grant funds from the Rape Crisis and Sexual Assault Center Fund.

(10) One member shall be a representative of a local service provider that provides services to victims of domestic violence and is eligible to receive grant funds from the Domestic Violence Center Fund.

(11) One member shall be an academician who is knowledgeable about trends and data relating to women's issues, such as those described in G.S. 143B-393.

(12) One member shall be a representative of a college or university who has educational background and expertise in the field of women's studies.

(13) One member shall be a representative of the North Carolina Child Care Coalition.

(14) Five members from the public at large.

(c) The Governor shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. 143B-16 of the Executive Organization Act of 1973.

(d) The Governor shall designate a member of the Council to serve as chairman at the pleasure of the Governor.

(e) Members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

A majority of the Council shall constitute a quorum for the transaction of business.

All clerical and other services required by the Council shall be supplied by the Secretary of Administration."

SECTION 4. The terms of all persons who are members of the North Carolina Council For Women on the effective date of this act shall expire on June 30, 2009. Ten of the 20 appointed successors shall have terms that expire on June 30, 2010, and the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify. The remaining 10 of the 20 appointed successors shall have terms that expire on June 30, 2011, and the appointment of their successors shall be for terms of two years and until their successors are appointed and qualify.

SECTION 5. G.S. 143B-394.15 reads as rewritten:

"...

(c) Membership. – The Commission shall consist of 39 members, who reflect the geographic and cultural regions of the State, as follows:

...

(4) The following persons or their designees, ex officio:

a. The Governor.
b. The Lieutenant Governor.
c. The Attorney General.
d. The Secretary of the Department of Administration.
e. The Secretary of the Department of Crime Control and Public Safety.
f. The Superintendent of Public Instruction.
g. The Secretary of the Department of Correction.
h. The Secretary of the Department of Health and Human Services.
i. The Director of the Office of State Personnel.
j. The ~~Executive Director~~ Chair of the North Carolina Council for Women.
k. The Dean of the School of Government at the University of North Carolina at Chapel Hill.
l. The Chairman of the Governor's Crime Commission.

...

(l) Staffing. – The Secretary of the Department of Administration shall be responsible for staffing the Commission. ~~To that end, the Secretary shall, at a minimum, assign an employee to serve as a Deputy Director within the North Carolina Council for Women whose primary duties shall be to staff the Commission. The person assigned as Deputy Director shall have the education, experience, and any other qualifications necessary for the position.~~"

SECTION 6. G.S. 50B-2(a) reads as rewritten:

"**§ 50B-2. Institution of civil action; motion for emergency relief; temporary orders; temporary custody.**

(a) Any person residing in this State may seek relief under this Chapter by filing a civil action or by filing a motion in any existing action filed under Chapter 50 of the General Statutes alleging acts of domestic violence against himself or herself or a minor child who resides with or is in the custody of such person. Any aggrieved party entitled to relief under this Chapter may file a civil action and proceed pro se, without the assistance of legal counsel. The district court division of the General Court of Justice shall have original jurisdiction over actions instituted under this Chapter. Any action for a domestic violence protective order requires that a separate summons be issued and served. The summons issued pursuant to this Chapter shall require the defendant to answer within 10 days of the date of service. Attachments to the summons shall include the complaint, notice of hearing, any temporary or ex parte order that has been issued, and other papers through the appropriate law enforcement agency where the defendant is to be served. No court costs shall be assessed for the filing, issuance, registration, or service of a protective order or petition for a protective order or witness subpoena in compliance with the Violence Against Women Act, 42 U.S.C. § 3796gg-5."

SECTION 7. The Joint Legislative Committee on Domestic Violence supports the adoption of an automated statewide domestic violence protective order notification system. In order to determine the financial and operational impact of developing the system, the Administrative Office of the Courts, in consultation with the Governor's Crime Commission and the North Carolina Attorney General's Office, shall (i) identify information in available databases relating to civil domestic violence protective orders, criminal no-contact order conditions, and postarrest conditions of release and (ii) determine the financial impact, including personnel costs, for implementing a domestic violence protective order notification system which interfaces with the North Carolina Statewide Automated Victim Assistance Notification System. The Governor's Crime Commission shall report the findings to the Joint Legislative Committee on Domestic Violence and the Fiscal Research Division by July 1, 2009.

SECTION 8. The North Carolina Domestic Violence Commission, in consultation with the North Carolina Coalition Against Domestic Violence and the North Carolina Coalition Against Sexual Assault, shall study the issue of State oversight and coordination of services to victims of sexual violence and whether sexual violence should be included as a focus area of the Commission. The study shall include, but is not limited to, a review of the organization and membership of entities in other states that (i) provide information and recommendations to state legislatures on domestic and sexual violence and (ii) information and services to the public on these issues. The Commission shall report its findings and recommendations to the Joint Legislative Committee on Domestic Violence by July 1, 2009.

SECTION 9. Section 6 of this act is effective for actions or motions filed on or after December 1, 2009. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, March 24, 2009
2:00 PM
Room 424 LOB

I. Agenda Items

HB 214	State Employee Community Service Days Representative Insko
HB 628	Aquarium Satellite Areas Funding Representatives Spear and Owens
HB 115	Joint DV Committee/Recommendations Representatives McLawhorn, Ross, Farmer-Butterfield, and Johnson
HB 473	Magistrate Can Carry Gun in Courthouse Representatives Hurley, Justus, Spear and Sutton

II. Discussion

III. Adjourn

HOUSE BILL 473

Short Title:	Magistrate Can Carry Gun in Courthouse.	(Public)
Sponsors:	Representatives Hurley, Justus, Spear, Sutton (Primary Sponsors); Avila, Barnhart, Blackwood, Blust, Brubaker, Burr, Burris-Floyd, Cleveland, Current, Dollar, Guice, Gulley, Holloway, Killian, McElraft, Neumann, Randleman, Setzer, Starnes, R. Warren, Wiley, and Wray.	
Referred to:	Judiciary III, if favorable, State Government/State Personnel.	

March 9, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MAGISTRATE WHO HAS A CONCEALED HANDGUN PERMIT MAY CARRY OR POSSESS A CONCEALED HANDGUN WHILE IN A COURTHOUSE TO DISCHARGE OFFICIAL DUTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-269.4 reads as rewritten:

"**§ 14-269.4. Weapons on State property and in courthouses.**

It shall be unlawful for any person to possess, or carry, whether openly or concealed, any deadly weapon, not used solely for instructional or officially sanctioned ceremonial purposes in the State Capitol Building, the Executive Mansion, the Western Residence of the Governor, or on the grounds of any of these buildings, and in any building housing any court of the General Court of Justice. If a court is housed in a building containing nonpublic uses in addition to the court, then this prohibition shall apply only to that portion of the building used for court purposes while the building is being used for court purposes.

This section shall not apply to:

(1) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

(1a) A person exempted by the provisions of G.S. 14-269(b),

(2) through (4) Repealed by S.L. 1997-238, s. 3, effective June 27, 1997,

(4a) Any person in a building housing a court of the General Court of Justice in possession of a weapon for evidentiary purposes, to deliver it to a law-enforcement agency, or for purposes of registration,

(4b) Any magistrate, district court ~~judge~~ judge, or superior court judge who carries or possesses a concealed handgun in a building housing a court of the General Court of Justice if the magistrate or judge is in the building to discharge his or her official duties and the magistrate or judge has a concealed handgun permit issued in accordance with Article 54B of this Chapter or considered valid under G.S. 14-415.24,

(4c) Firearms in a courthouse, carried by detention officers employed by and authorized by the sheriff to carry firearms,

(5) State-owned rest areas, rest stops along the highways, and State-owned hunting and fishing reservations.

Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor."

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

HOUSE BILL 473:
Magistrate Can Carry Gun in Courthouse

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	March 19, 2009
Introduced by:	Reps. Hurley, Justus, Spear, Sutton	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	First Edition		Committee Co-Counsel

SUMMARY: ***House Bill 473 would amend G.S. 14-269.4 to authorize a magistrate to carry a concealed handgun in a courthouse if the magistrate is there to discharge his or her official duties and has a valid concealed handgun permit issued pursuant to Article 54B of Chapter 14 of the General Statutes.***

CURRENT LAW:

G.S. 14-269.4 prohibits deadly weapons from being carried, openly or concealed, in various State buildings, including a building housing a court of the General Court of Justice. Violation is a Class 1 misdemeanor. One of the current exceptions to the statute is for district and superior court judges discharging official duties who carry a concealed handgun if they have a valid concealed handgun permit issued pursuant to Article 54B of Chapter 14 of the General Statutes.

BILL ANALYSIS: HB 473 makes the exception for judges applicable to magistrates.

EFFECTIVE DATE: Effective when it becomes law.

Steve Rose, counsel to House Judiciary III, substantially contributed to this summary.

H473-SMRO-13(e1) v1

VISITOR REGISTRATION SHEET

STATE GOVERNMENT / STATE PERSONNEL — MARCH 24, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John W Smith	AOC
Neal Conoley	NC Ag Soc.
Jeff Mixon	Civitas
Cara Brackett	NCSBA
Hosni El Oujaoud Al Assio	DOA
Barry Bryant	GCC
Cliff Osburn	Town of Nags Head
Bobby Outlaw	Dare County

VISITOR REGISTRATION SHEET

STATE GOVERNMENT / STATE PERSONNEL — MARCH 24, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Spranberry	NCEM
Mike Olsen	UNCTV
Elizabeth Bo	DOT
DAVID GRIFFIN	DENR
Jim Stegall	UCPS
Carl Doom	DSP
Christy Agner	DOA
EMILY DOYLE	NCDAPA
Colleen Kochanek	SMC
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
WARREN JUDE	DARE County

Minutes
House Committee on State Government/State Personnel
Tuesday, March 31, 2009

The House Committee on State Government/State Personnel met on Tuesday, March 31, 2009, at 2:00 PM in Room 424 Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Jackson and Mobley and Representatives Burr, Justus, Killian, Randleman, Sager, Sutton, Wiley, Womble and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines, Toussaint Avent and Gerald Perry. Pages for the meeting were Carolina Ponce of Wake County, sponsored by Representative Sager; Typhaine Lefranc of Mecklenburg County, sponsored by Representative Killian; Elizabeth Marshall of Surry County, sponsored by Rep. Stevens; and Myles Swain of New Hanover County, sponsored by Representative McComas.

Chairman Wilkins announced that HB 321 had been withdrawn from the Agenda.

He then recognized Representative Fisher to explain her bill, **House Bill 596, Designate April as Woodworking Month.** Representative Womble made a motion that the bill receive a favorable report and be re-referred to the Committee on Rules, Calendar, and Operations of the House. The motion passed.

Representative Martin was recognized to describe his bill, **House Bill 381, Expand Division of Emergency Mgmt. Authority.** By motion of Representative Sutton, the Proposed Committee substitute was adopted for discussion. Representative Martin explained that the bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery. Representative Mobley then made a motion that the committee substitute (PCS) receive a favorable report, unfavorable to the original bill, with recommendation that the committee substitute be re-referred to the Committee on Homeland Security, Military, and Veterans Affairs. The motion was adopted.

Representative Crawford was asked to explain his bill, **House Bill 683, Adopt NC Hot Sauce Day.** Following discussion, Representative Womble made a motion that the bill receive a favorable report. The motion carried..

Representative Burris-Floyd was recognized to explain her bill, **House Bill 696, Motorcycle Awareness Month.** Representative Sutton made a motion that the bill receive a favorable report. The motion carried.

The meeting was adjourned at 3:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

Attachments
House Bills 381, 596, 683 and 696
Bill Summaries
Visitor Registration Sheets

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 596 A BILL TO BE ENTITLED AN ACT DESIGNATING APRIL AS WOODWORKING MONTH IN NORTH CAROLINA.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 381 A BILL TO BE ENTITLED AN ACT TO EXPAND THE POWERS OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on HOMELAND SECURITY, MILITARY, AND VETERANS AFFAIRS.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 683 A BILL TO BE ENTITLED AN ACT ESTABLISHING NORTH CAROLINA HOT SAUCE DAY.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 696 A BILL TO BE ENTITLED AN ACT ESTABLISHING MOTORCYCLE AWARENESS MONTH.

☒ 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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, March 31, 2009
2:00 PM
Room 424 LOB

I. Agenda Items

HB 321	Zoo and Zoo Funds Modifications — Pulled from Agenda Representatives Warren, Brubaker, Tarleton and Harrison
HB 381	Expand Division of Emergency Mgmt. Authority Representatives Martin and Wainwright
HB 596	Designate April as Woodworking Month Representatives Fisher, Yongue, Langdon and Rapp
HB 683	Adopt NC Hot Sauce Day Representative Crawford
HB 696	Motorcycle Awareness Month Representatives Burris-Floyd, Folwell, Allred and Stevens

II. Discussion

III. Adjourn

HOUSE BILL 596

Short Title:	Designate April as Woodworking Month.	(Public)
Sponsors:	Representatives Fisher, Yongue, Langdon, Rapp (Primary Sponsors); M. Alexander, Bordsen, Goforth, Jones, Justus, Lucas, Luebke, Martin, McCormick, Samuelson, Tarleton, Underhill, R. Warren, and Whilden.	
Referred to:	State Government/State Personnel, if favorable, Rules, Calendar, and Operations of the House.	

March 16, 2009

A BILL TO BE ENTITLED

AN ACT DESIGNATING APRIL AS WOODWORKING MONTH IN NORTH CAROLINA.

Whereas, the month of April is celebrated as National Woodworking Month; and

Whereas, designating the month of April as Woodworking Month in North Carolina would help focus attention on the beauty and satisfaction of working with wood; and

Whereas, the designation would motivate North Carolinians to undertake woodworking projects by increasing their knowledge and skill in woodworking and wood finishing; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Woodworking Month.**

The month of April of each year is designated as Woodworking Month in the State of North Carolina."

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

HOUSE BILL 596:
Designate April as Woodworking Month

2009-2010 General Assembly

Committee:	State Government/State Personnel, if favorable, Rules, Calendar, and Operations of the House	**Date:**	March 31, 2009
Introduced by:	Reps. Fisher, Yongue, Langdon, Rapp	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: House Bill 596 would designate April as Woodworking Month in North Carolina.

This bill has a serial referral to Rules.

CURRENT LAW: Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designates the following as Special Days in North Carolina:

Arbor Week	The week in March containing March 15
American Family Day	The first Sunday in August
Indian Solidarity Week	The last full week in September
Prisoner of War Day	April 9
Pearl Harbor Remembrance Day	December 7
Disability History and Awareness Month	October

BILL ANALYSIS: House Bill 596 would add a new section in Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designating April as Woodworking Month in North Carolina.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: Federal law designates April as National Woodworking Month.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 381*
PROPOSED COMMITTEE SUBSTITUTE H381-PCS50367-RF-11

Short Title: Expand Division of Emergency Mgmt. Authority. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE POWERS OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-4(4) reads as rewritten:

"(4) Emergency Management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(5a) Hazard Risk Management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources."

SECTION 3. G.S. 166A-5(3) reads as rewritten:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.

b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
2. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
3. The procurement and allocation of immunizing agents and prophylactic antibiotics.
4. The allocation of the National Pharmaceutical Stockpile.
5. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
6. Immunization procedures.
7. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.

c. Promulgation of standards and requirements for local plans and programs, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments.

d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.

e. Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.

f. Coordination of the use of any private facilities, services, and property.

g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.

h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.

i. Making recommendations, as appropriate, for zoning, building and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of a disaster.

j. Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network.

k. Administration of federal and State grant funds provided for emergency management purposes, including those funds provided for planning and preparedness activities by emergency management agencies.

l. Serving as the lead State agency for the coordination of information and resources for hazard risk management, which shall include the following responsibilities:

1. Coordinating with other State agencies and county governments in conducting hazard risk analysis. To the extent another State agency has primary responsibility for the

adoption of hazard mitigation standards, those standards shall be applied in conducting a hazard risk analysis.

2. Establishing and maintaining a hazard risk management information system and tools to display natural hazards and vulnerabilities and conducting risk assessment.

3. Acquiring and leveraging all natural hazard data generated or maintained by State agencies and county governments.

4. Acquiring and leveraging all vulnerability data generated or maintained by State agencies and county governments.

5. Maintaining a clearinghouse for methodologies and metrics for calculating and communicating hazard probability and loss estimation.

m. Utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities."

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

HOUSE BILL 381:
Expand Division of Emergency Mgmt. Authority

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Homeland Security, Military, and Veterans Affairs	**Date:**	March 30, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H381-CSRF-11		

SUMMARY: ***House Bill 381 amends the Emergency Management Act to expand the role of the Department of Crime Control and Public Safety, Division of Emergency Management in planning for and coordinating efforts with regard to emergency management and particularly hazard risk management. This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.***

The PCS clarifies that the Division of Emergency Management will work with other State agencies that may have primary responsibility for adoption of hazard risk standards.

[As introduced, this bill was identical to S257, as introduced by Sen. Snow, which is currently in Senate Ref to State and Local Government. If fav, re-ref to Appropriations/Base Budget.]

CURRENT LAW:

Under current law, the Governor has general authority over the State emergency management program, which includes all aspects of preparation for, response to, and recovery from war or peacetime disasters.

The Secretary of Crime Control and Public Safety is responsible for carrying out the Governor's plans with regard to emergency management activities. The Secretary has sub-delegated this function to the Division of Emergency Management.

BILL ANALYSIS:

House Bill 381 adds a definition of the term "Hazard Risk Management" which involves the identification, assessment and control of risk associated with hazards affecting human health, safety, and property.

The bill also adds several new functions under the State Emergency Program, including:

- Administration of federal and State grant funds;
- Serving as the lead State agency for the coordination of information and resources for hazard risk management;
- Using and maintaining technology that improves communication among all levels of government when involved in emergency management activities.

EFFECTIVE DATE: This act is effective when it becomes law.

H381-SMRO-19(CSRF-11) v1

HOUSE BILL 381*

Short Title:	Expand Division of Emergency Mgmt. Authority.	(Public)
Sponsors:	Representatives Martin, Wainwright (Primary Sponsors); M. Alexander, England, E. Floyd, Glazier, Harrison, Hughes, Insko, Lucas, Pierce, Rapp, Spear, and Wray.	
Referred to:	State Government/State Personnel, if favorable, Homeland Security, Military, and Veterans Affairs.	

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE POWERS OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-4(4) reads as rewritten:

"(4) Emergency Management. – Those measures taken by the populace and governments at federal, State, and local levels to minimize the adverse effect of any type disaster, which includes the never-ending preparedness cycle of planning, prevention, mitigation, warning, movement, shelter, emergency assistance, and recovery."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(5a) Hazard Risk Management. – The systematic application of policies, practices, and resources to the identification, assessment, and control of risk associated with hazards affecting human health and safety and property. Hazard, risk, and cost-benefit analysis are used to support development of risk reduction options, program objectives, and prioritization of issues and resources."

SECTION 3. G.S. 166A-5(3) reads as rewritten:

"(3) Functions of State Emergency Management. – The functions of the State emergency management program include:

a. Coordination of the activities of all agencies for emergency management within the State, including planning, organizing, staffing, equipping, training, testing, and the activation of emergency management programs.

b. Preparation and maintenance of State plans for man-made or natural disasters. The State plans or any parts thereof may be incorporated into department regulations and into executive orders of the Governor.

b1. Coordination with the State Health Director to amend or revise the North Carolina Emergency Operations Plan regarding public health matters. At a minimum, the revisions to the Plan shall provide for the following:

1. The epidemiologic investigation of a known or suspected threat caused by nuclear, biological, or chemical agents.
2. The examination and testing of persons and animals that may have been exposed to a nuclear, biological, or chemical agent.
3. The procurement and allocation of immunizing agents and prophylactic antibiotics.
4. The allocation of the National Pharmaceutical Stockpile.
5. The appropriate conditions for quarantine and isolation in order to prevent further transmission of disease.
6. Immunization procedures.
7. The issuance of guidelines for prophylaxis and treatment of exposed and affected persons.

c. Promulgation of standards and requirements for local plans and programs, determination of eligibility for State financial assistance provided for in G.S. 166A-7 and provision of technical assistance to local governments.

d. Development and presentation of training programs and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need.

e. Making of such studies and surveys of the resources in this State as may be necessary to ascertain the capabilities of the State for emergency management, maintaining data on these resources, and planning for the most efficient use thereof.

f. Coordination of the use of any private facilities, services, and property.

g. Preparation for issuance by the Governor of executive orders, proclamations, and regulations as necessary or appropriate.

h. Cooperation and maintenance of liaison with the other states, federal government and any public or private agency or entity in achieving any purpose of this Article and in implementing programs for emergency, disaster or war prevention, preparation, response, and recovery.

i. Making recommendations, as appropriate, for zoning, building and other land-use controls, and safety measures for securing mobile homes or other nonpermanent or semipermanent works designed to protect against or mitigate the effects of a disaster.

j. Coordination of the use of existing means of communications and supplementing communications resources and integrating them into a comprehensive State or State-federal telecommunications or other communications system or network.

k. Administration of federal and State grant funds provided for emergency management purposes, including those funds provided for planning and preparedness activities by emergency management agencies.

l. Serving as the lead State agency for hazard risk management, which shall include the following responsibilities:

1. Coordinating with the supporting State and county governments in conducting hazard risk analysis.
2. Establishing and maintaining a hazard risk management system and tools to display natural hazards and vulnerabilities and conducting risk assessment.

3. Acquiring and leveraging all natural hazard data generated or maintained by State and county governments.
4. Acquiring and leveraging all vulnerability data generated or maintained by State and county governments.
5. Establishing and maintaining methodologies and metrics for calculating and communicating hazard probability and loss estimation.

m. Utilizing and maintaining technology that enables efficient and effective communication and management of resources between political subdivisions, State agencies, and other governmental entities involved in emergency management activities."

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

HOUSE BILL 683

Short Title:	Adopt NC Hot Sauce Day.	(Public)
Sponsors:	Representative Crawford.	
Referred to:	State Government/State Personnel.	

March 19, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING NORTH CAROLINA HOT SAUCE DAY.

Whereas, Granville County is home to both Bailey Farms, the largest pepper producer and distributor on the eastern seaboard and "Spice It Up" hot sauce, the 2005 new product of the year and also the critics "Meet the Heat" award and People's Choice Award for 2008; and

Whereas, the North Carolina Hot Sauce Contest was conceived to promote tourism in historic downtown Oxford; and

Whereas, the contest is held on the second Saturday of September and attracts producers from across the State, who showcase North Carolina products, including hot sauces, microbreweries, wines, barbeque sauces, and fiery food, and

Whereas, in addition to the hot sauce contest, visitors can participate in various simultaneous events, including the annual Heritage Street Festival and the September Sensations Bazaar at the Harris Exhibit Hall; and

Whereas, the North Carolina Hot Sauce Contest provides visitors with a fun-filled day of activities and deserves recognition as a statewide event; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. North Carolina Hot Sauce Day.**

The second Saturday of September of each year is designated as North Carolina Hot Sauce Day."

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

HOUSE BILL 696

Short Title:	Motorcycle Awareness Month.	(Public)
Sponsors:	Representatives Burris-Floyd, Folwell, Allred, Stevens (Primary Sponsors); Avila, Barnhart, Blackwell, Blackwood, Blue, Blust, Boles, Brubaker, Burr, Current, Daughtry, Dollar, Earle, Faison, Farmer-Butterfield, Fisher, E. Floyd, Glazier, Goforth, Goodwin, Grady, Guice, Gulley, Hall, Harrison, Hilton, Howard, Hurley, Jackson, Johnson, Jones, Justus, Killian, Lucas, Mackey, McComas, McElraft, McLawhorn, Mills, Mobley, Moore, Neumann, Parmon, Randleman, Rhyne, Sager, Samuelson, Stam, Steen, Sutton, Tillis, Underhill, E. Warren, Weiss, Whilden, Wilkins, Williams, and Womble.	
Referred to:	State Government/State Personnel.	

March 23, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING MOTORCYCLE AWARENESS MONTH.

Whereas, motorcycle riding is a popular form of recreation and transportation for thousands of citizens across North Carolina and the United States; and

Whereas, North Carolina has over 132,000 registered motorcycles and over 260,000 licensed drivers who have either a motorcycle endorsement or a motorcycle learners permit; and

Whereas, it is important that the citizens of North Carolina be aware of motorcycles on the roadways and recognize the importance of motorcycle safety and of sharing the roadways; and

Whereas, the safe operation of a motorcycle is enhanced through a combination of rider training and experience, good judgment, and a knowledge of traffic laws and licensing requirements; and

Whereas, several organizations, such as the Concerned Bikers Association/ABATE of North Carolina, along with the North Carolina Motorcycle Safety Education Program, and other State and local motorcycle clubs and riding or social clubs, are committed to increasing the safe operation of motorcycles by promoting rider safety education programs; their goal is to alert the motorists of the Great State of North Carolina to a Safety Promotion known as "Look Twice, Save a Life, Motorcycles are Everywhere"; and

Whereas, Motorcycle Awareness Month is designed to increase public awareness about motorcycles and to encourage their safe and proper use among motorcycle riders; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Motorcycle Awareness Month.**

The month of May of each year is designated as Motorcycle Awareness Month in the State of North Carolina."

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

HOUSE BILL 696:
Motorcycle Awareness Month

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	March 31, 2009
Introduced by:	Reps. Burris-Floyd, Folwell, Allred, Stevens	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***House Bill 696 would designate May as Motorcycle Awareness Month in North Carolina.***

CURRENT LAW: Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designates the following as Special Days in North Carolina:

Arbor Week	The week in March containing March 15
American Family Day	The first Sunday in August
Indian Solidarity Week	The last full week in September
Prisoner of War Day	April 9
Pearl Harbor Remembrance Day	December 7
Disability History and Awareness Month	October

BILL ANALYSIS: House Bill 696 would add a new section in Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designating May as Motorcycle Awareness Month in North Carolina.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: Motorcycle Awareness Month is intended to increase public awareness about motorcycles and to encourage their safe and proper use among motorcycle riders.

VISITOR REGISTRATION SHEET

STATE GOV. STATE PERSONNEL — MAR. 31, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Biser	DENR
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Doug HOELL	NC DEPT OF CRIME CONTROL & PUBLIC SAFETY
Rebecca Troutman	NCACC

House Pages

STATE GOVERNMENT/
STATE PERSONNEL

Name Of Committee: _____ Date: MARCH 31, 2009

1. Name: Carolina Ponce
   County: Wayne
   Sponsor: Sager
2. Name: Typhaine LeFranc
   County: Mecklenburg
   Sponsor: Killian
3. Name: Elizabeth Marshall
   County: Surry
   Sponsor: Stevens
4. Name: Myles Swain
   County: New Hanover
   Sponsor: McComas
5. Name: _____
   County: _____
   Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES
2. Name: TOUSSAINT AVENT
3. Name: GERALD PERRY
4. Name: _____

Minutes
House Committee on State Government/State Personnel
Tuesday, April 7, 2009

The House Committee on State Government/State Personnel met on Tuesday, April 7, 2009, at 2:00 PM in Room 424 Legislative Office Building. In addition to chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley, Womble and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Jerald Perry, Toussaint Avent, Martha Parrish and James Worth. Pages for the meeting were Kayla Orr of Pender County, sponsored by Rep. Justus; Allie Ethridge of New Hanover County, sponsored by Speaker Hackney; Michael Vidal of Wake County, sponsored by Rep. Grier; Carson Allen of Person County, sponsored by Rep. Wilkins; Kia Arnold of Washington County, sponsored by Rep. Fisher.

Chairman Wilkins recognized Representative Martin to explain his bill, **House Bill 377, Authorize Emergency Mgmt. Certification Prog.** Representative Wiley offered an amendment to the bill, which was adopted. Representative Sutton moved for a favorable report as to the amended bill, unfavorable as to the original bill. The motion was adopted.

Representative Martin was recognized to explain his bill, **House Bill 378, Statutorily Establish Division of Emerg. Mgmt.** Representative Jackson offered an amendment to the bill, which was adopted. Representative Womble then moved for a favorable report as to the amended bill, unfavorable to the original bill. The motion carried.

Representative Martin then explained his next bill, **House Bill 379, Allows Mutual Aid Between State & Local Gov.** Representative Killian made a motion that the bill be given a favorable report. The motion carried.

Representative Tucker was called on to explain his bill, **House Bill 723, Electronic Reporting of Abandoned Property.-AB**. During the discussion, Allen Martin of the State Treasurer's Office spoke on the merits of the bill. Representative Womble made a motion that the bill be given a favorable report and be re-referred to the Committee on Judiciary III. The motion carried.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 377 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DIVISION OF EMERGENCY MANAGEMENT TO ESTABLISH A VOLUNTARY EMERGENCY MANAGEMENT CERTIFICATION PROGRAM, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

☒ With a favorable report as to the committee substitute bill, 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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 378 A BILL TO BE ENTITLED AN ACT TO STATUTORILY ESTABLISH THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

☒ With a favorable report as to the committee substitute bill, 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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 379 A BILL TO BE ENTITLED AN ACT TO ALLOW MUTUAL AID AGREEMENTS BETWEEN THE STATE AND POLITICAL SUBDIVISIONS OF THE STATE, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 723 A BILL TO BE ENTITLED AN ACT TO REQUIRE HOLDERS OF ABANDONED PROPERTY WITH FIFTY OR MORE PROPERTY OWNER RECORDS TO FILE ELECTRONICALLY WITH THE OFFICE OF THE STATE TREASURER, TO ALLOW HOLDERS WITH LESS THAN FIFTY PROPERTY OWNER RECORDS TO FILE ELECTRONICALLY, AND TO ALLOW HOLDERS REPORTING ELECTRONICALLY TO FILE AN ELECTRONIC AFFIDAVIT.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY III.

(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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, April 7, 2009
2:00 PM
Room 424 LOB

I. Agenda Items

HB 321	Zoo and Zoo Funds Modifications. – not reported out Representatives Warren, Brubaker, Tarleton and Harrison
HB 377	Authorize Emergency Mgmt. Certification Prog. Representatives Martin and Wainwright
HB378	Statutorily Establish Division of Emerg. Mgmt. Representatives Martin and Wainwright
HB 379	Allows Mutual Aid Between State & Local Gov. Representatives Martin and Wainwright
HB 467	Auditor Ex Officio Duties. – not reported out Representative Tucker
HB 723	Electronic Reporting of Abandoned Property.–AB Representative Tucker

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 377*
PROPOSED COMMITTEE SUBSTITUTE H377-PCS70344-RO-12

Short Title: Authorize Emergency Mgmt. Certification Prog. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF EMERGENCY MANAGEMENT TO ESTABLISH A VOLUNTARY EMERGENCY MANAGEMENT CERTIFICATION PROGRAM, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-5(3)d. reads as rewritten:

"d. Development and presentation of training ~~programs~~ programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need."

SECTION 2. Chapter 166A of the General Statutes is amended by adding a new Article to read:

"Article 5.

"Emergency Management Certification Program.

"**§ 166A-54. Emergency Management Certification Program authority; purpose.**

The Division of Emergency Management in the Department of Crime Control and Public Safety shall establish, as a voluntary program, an Emergency Management Certification Program as provided for in this Article. The purpose of the Program is to strengthen and enhance the professional competencies of emergency management personnel in State and local emergency management agencies.

"**§ 166A-55. Program standards and guidelines.**

(a) The Division shall establish standards and guidelines for administration of the Program, including:

(1) Minimum educational and training standards that must be met in order to qualify for Type IV (entry), Type III (basic), Type II (intermediate), and Type I (advanced) emergency management certification.

(2) Levels of education or equivalent experience that may be met in order to qualify for the certifications provided for in subdivision (1) of this subsection.

(3) Levels of education or equivalent experience for instructors who participate in programs or courses of instruction.

(4) Curricula, syllabi, and other educational materials.

(5) Mode(s) of delivery of educational and training programs.

(b) In developing the Program, the Division may consult and cooperate with political subdivisions, agencies of the State, other governmental agencies, universities, colleges, community colleges, and other institutions, public or private, concerning the development of the Program and a systematic career development plan, including conducting and stimulating research by public and private agencies designed to improve education and training in the administration of emergency management.

(c) The Division shall study and make reports and recommendations to the Secretary of Crime Control and Public Safety and other appropriate agencies and officials concerning compliance with federal guidance, training, educational, technical assistance needs, and equipment needs of State and local emergency management agencies.

"**§ 166A-56. Emergency Management Training and Standards Advisory Board.**

(a) The Secretary of Crime Control and Public Safety shall establish and appoint the Emergency Management Training and Standards Advisory Board to provide oversight of training and certification programs established pursuant to this Article.

(b) The composition of the Board shall include emergency management subject matter experts representative of the State, its political subdivisions, and private industry.

(c) The duties of the Board shall include:

(1) Oversight of the Emergency Management Certification Program.

(2) Review of applications for certification.

(3) Issuance of certifications at least semiannually.

(d) The Board shall meet at least semiannually and at other times at the discretion of the Secretary.

"**§ 166A-57. Issuance of certification; reciprocity; renewal.**

(a) The Emergency Management Training and Standards Advisory Board shall issue documentation of certification, in a form and manner prescribed by the Division, to each applicant within North Carolina demonstrating successful completion of the requirements for the level of certification sought by the applicant.

(b) The Board may issue documentation of certification to any person in another state or territory if the person's qualifications were, at the date of registration or certification, substantially equivalent to the requirements established pursuant to this Article.

(c) Every person certified pursuant to this Article who desires to maintain certification shall apply for renewal of certification within five years of the date of original certification or certification renewal.

(d) Renewal of Type I (advanced) certification is subject to completion of at least 24 hours of continuing education requirements as established by the Board.

(e) A certification that is not renewed in accordance with this section automatically expires. The Board may approve reinstatement of an expired certification upon good cause shown by the applicant.

(f) Certifications that have been expired for more than five years shall not be reinstated."

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

HOUSE BILL 377:
Authorize Emergency Mgmt. Certification Prog

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	April 6, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 377 directs the Division of Emergency Management to establish a voluntary emergency management certification program. The bill also authorizes the creation of an Emergency Management Training and Standards Advisory Board to oversee the program, review applications, and issue and renew certifications.

This bill was recommended by the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

[As introduced, this bill was identical to S255, as introduced by Sen. Snow, which is currently in Senate State and Local Government.]

BILL ANALYSIS:

Section 1 of the bill amends the North Carolina Emergency Management Act to include the velopment of the Certification Program under the State emergency management program.

Section 2 creates a new Article and directs the Division of Emergency Management to establish a voluntary Emergency Management Certification Program. The Division sets the standards and guidelines for the Program and may consult and cooperate on the development of the program with political subdivisions, other agencies, and with public and private colleges and universities. The Division is also directed to make reports and recommendations to the Secretary on training, educational, technical assistance and equipment needs of State and local emergency management agencies.

The Secretary of Crime Control and Public Safety is directed to establish an Emergency Management Training and Standards Advisory Board, which shall include emergency management experts from the State, localities and private industry. The duties of the Board include:

- Oversight of the Emergency Management Certification Program.
- Review of applications for certification.
- Issuance of certifications.

The Board is exempted from the provisions of the State Government Ethics Act.

The Board must issue certification to any in-State applicant who demonstrates completion of the requirements. The Board has authority to issue certification to a person in another State if it determines that the person's qualifications are substantially equivalent to the North Carolina requirements. Certifications must be renewed within 5 years and the Board may approve reinstatement of an expired certification for good cause.

EFFECTIVE DATE: This act is effective when it becomes law.

H377-SMRO-23(e1) v1

HOUSE BILL 377*

Short Title:	Authorize Emergency Mgmt. Certification Prog.	(Public)
Sponsors:	Representatives Martin, Wainwright (Primary Sponsors); M. Alexander, England, Faison, E. Floyd, Glazier, Harrison, Hughes, Insko, Lucas, Pierce, Rapp, and Wray.	
Referred to:	Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel.	

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF EMERGENCY MANAGEMENT TO ESTABLISH A VOLUNTARY EMERGENCY MANAGEMENT CERTIFICATION PROGRAM, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-5(3)d. reads as rewritten:

"d. Development and presentation of training ~~programs~~ programs, including the Emergency Management Certification Program established under Article 5 of this Chapter, and public information programs to insure the furnishing of adequately trained personnel and an informed public in time of need."

SECTION 2. Chapter 166A of the General Statutes is amended by adding a new Article to read:

"Article 5.

"Emergency Management Certification Program.

"**§ 166A-54. Emergency Management Certification Program authority; purpose.**

The Division of Emergency Management in the Department of Crime Control and Public Safety shall establish, as a voluntary program, an Emergency Management Certification Program as provided for in this Article. The purpose of the Program is to strengthen and enhance the professional competencies of emergency management personnel in State and local emergency management agencies.

"**§ 166A-55. Program standards and guidelines.**

(a) The Division shall establish standards and guidelines for administration of the Program, including:

(1) Minimum educational and training standards that must be met in order to qualify for Type IV (entry), Type III (basic), Type II (intermediate), and Type I (advanced) emergency management certification.

(2) Levels of education or equivalent experience that may be met in order to qualify for the certifications provided for in subdivision (1) of this subsection.

(3) Levels of education or equivalent experience for instructors who participate in programs or courses of instruction.

(4) Curricula, syllabi, and other educational materials.

(5) Mode(s) of delivery of educational and training programs.

(b) In developing the Program, the Division may consult and cooperate with political subdivisions, agencies of the State, other governmental agencies, universities, colleges, community colleges, and other institutions, public or private, concerning the development of the program and a systematic career development plan, including conducting and stimulating research by public and private agencies designed to improve education and training in the administration of emergency management.

(c) The Division shall study and make reports and recommendations to the Secretary of Crime Control and Public Safety and other appropriate agencies and officials concerning compliance with federal guidance, training, educational, and technical assistance needs, and equipment needs of State and local emergency management agencies.

"**§ 166A-56. Emergency Management Training and Standards Advisory Board.**

(a) The Secretary of Crime Control and Public Safety shall establish and appoint the Emergency Management Training and Standards Advisory Board to provide oversight of training and certification programs established pursuant to this Article.

(b) The composition of the Board shall include emergency management subject matter experts representative of the State, its political subdivisions, and private industry.

(c) The duties of the Board shall include:

(1) Oversight of the Emergency Management Certification Program.

(2) Review of applications for certification.

(3) Issuance of certifications at least semiannually.

(d) The Board shall meet at least semiannually and at other times at the discretion of the Secretary.

(e) The Board established pursuant to this section is not a board as defined in G.S. 138A-3(1c).

"**§ 166A-57. Issuance of certification; reciprocity; renewal.**

(a) The Emergency Management Training and Standards Advisory Board shall issue documentation of certification, in a form and manner prescribed by the Division, to each applicant within North Carolina demonstrating successful completion of the requirements for the level of certification sought by the applicant.

(b) The Board may issue documentation of certification to any person in another state or territory if the person's qualifications were, at the date of registration or certification, substantially equivalent to the requirements established pursuant to this Article.

(c) Every person certified pursuant to this Article who desires to maintain certification shall apply for renewal of certification within five years of the date of original certification or certification renewal.

(d) Renewal of Type I (advanced) certification is subject to completion of at least 24 hours of continuing education requirements as established by the Board.

(e) A certification that is not renewed in accordance with this section automatically expires. The Board may approve reinstatement of an expired certification upon good cause shown by the applicant.

(f) Certifications that have expired for more than five years shall not be reinstated."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 378*
PROPOSED COMMITTEE SUBSTITUTE H378-PCS10813-SF-11

Short Title: Statutorily Establish Division of Emerg. Mgmt. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO STATUTORILY ESTABLISH THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-475(a) is amended by adding a new subdivision to read:

"(11) Emergency Management Division, Department of Crime Control and Public Safety. The purpose of this subdivision is to statutorily vest in the Department the powers previously conferred on the Division by executive order or otherwise."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(2a) Division. – The Division of Emergency Management established in Part 7 of Article 11 of Chapter 143B of the General Statutes."

SECTION 3. Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 7. Emergency Management Division.

"**§ 143B-508. Division of Emergency Management of the Department of Crime Control and Public Safety.**

(a) There is established, within the Department of Crime Control and Public Safety, the Division of Emergency Management, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Division of Emergency Management shall have the following powers and duties:

(1) To exercise the powers and duties exercised prior to the enactment of this section, in accordance with G.S. 143B-475(a)(11).

(2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes.

(3) To exercise any other powers vested by law."

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

HOUSE BILL 378:
Statutorily Establish Division of Emerg. Mgmt

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	April 7, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***House Bill 378 would establish in the North Carolina General Statutes the Division of Emergency Management within the Department of Crime Control and Public Safety.***

[As introduced, this bill was identical to S253, as introduced by Sen. Snow, which is currently in Senate State and Local Government.]

CURRENT LAW: Article 11 of Chapter 143B of the General Statutes sets out the general provisions for the Department of Crime Control and Public Safety (Department). It is the duty of the Department, generally, to protect the public against crime and against natural and man-made disasters.

Article 1 of Chapter 166A of the General Statutes creates the North Carolina Emergency Management Act of 1977. Some of the purposes of this Article are to set forth the authority and responsibility of the Governor, State agencies, and local governments in prevention of, preparation for, response to and recovery from natural or man-made disasters or hostile military or paramilitary action.

BILL ANALYSIS:

ection 1 would amend G.S. 143B-475 (a) to add the Emergency Management Division, Department of Crime Control and Public Safety to the list of subunits of departments whose "functions, powers, duties, and obligations" are transferred to and vested in the Department of Crime Control and Public Safety. The effect of this transfer would be to statutorily vest in the Department the powers previously conferred on the Division by executive order or otherwise.

Section 2 would amend G.S. 166A-4 by adding the Division of Emergency Management to the definitions section of the North Carolina Emergency Management Act.

Section 3 would amend Article 11 (Department of Crime Control and Public Safety) of Chapter 143B (Executive Organization Act of 1973) by inserting a new Part 7 "Emergency Management Division". This new Part 7 would clearly establish the Division of Emergency Management, within the Department of Crime Control and Public Safety and provide it with the following powers and duties:

- To exercise the powers and duties exercised prior to the enactment of this section;
- To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes; and
- To exercise any other powers vested by law.

EFFECTIVE DATE: The act would become effective when it becomes law.

BACKGROUND: House Bill 378 is a recommendation of the Joint Select Committee on Emergency Preparedness and Disaster Management Recovery.

'n Popkin, Counsel to the Homeland Security, Military, and Veterans Affairs Committee, contributed to this summary.

H378-SMSF-26(e1) v2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 378* 4 PCS

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

H378-ASF-5 [v.1]

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

Date _____,2009

Representative _____

moves to amend the bill on page 1, line 7, by replacing the citation "G.S. 143B-475" with the correct citation "G.S. 143B-475(a)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 378*

Short Title:	Statutorily Establish Division of Emerg. Mgmt.	(Public)
Sponsors:	Representatives Martin, Wainwright (Primary Sponsors); England, E. Floyd, Glazier, Harrison, Hughes, Insko, Lucas, Pierce, Rapp, Spear, Steen, Tarleton, Womble, and Wray.	
Referred to:	Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel.	

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO STATUTORILY ESTABLISH THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-475 is amended by adding a new subdivision to read:

"(11) Emergency Management Division, Department of Crime Control and Public Safety. The purpose of this subdivision is to statutorily vest in the Department the powers previously conferred on the Division by executive order or otherwise."

SECTION 2. G.S. 166A-4 is amended by adding a new subdivision to read:

"(2a) Division. – The Division of Emergency Management established in Part 7 of Article 11 of Chapter 143B of the General Statutes."

SECTION 3. Article 11 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 7. Emergency Management Division.

"**§ 143B-508. Division of Emergency Management of the Department of Crime Control and Public Safety.**

(a) There is established, within the Department of Crime Control and Public Safety, the Division of Emergency Management, which shall be organized and staffed in accordance with applicable laws and regulations and within the limits of authorized appropriations.

(b) The Division of Emergency Management shall have the following powers and duties:

(1) To exercise the powers and duties exercised prior to the enactment of this section, in accordance with G.S. 143B-475(a)(11).

(2) To exercise the powers and duties conferred on it by Chapter 166A of the General Statutes.

(3) To exercise any other powers vested by law."

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

HOUSE BILL 379*

Short Title:	Allows Mutual Aid Between State & Local Gov.	(Public)
Sponsors:	Representatives Martin, Wainwright (Primary Sponsors); M. Alexander, Crawford, England, E. Floyd, Glazier, Harrison, Hughes, Insko, Lucas, McGee, Pierce, Rapp, Steen, and Wray.	
Referred to:	Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel.	

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW MUTUAL AID AGREEMENTS BETWEEN THE STATE AND POLITICAL SUBDIVISIONS OF THE STATE, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON EMERGENCY PREPAREDNESS AND DISASTER MANAGEMENT RECOVERY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-10 reads as rewritten:

"**§ 166A-10. Establishment of mutual aid agreements.**

(a) The Governor may establish mutual aid agreements with other states and with the federal government provided that any special agreements so negotiated are within the Governor's authority.

(a1) The Governor may establish mutual aid agreements with political subdivisions in the State with the concurrence of the subdivision's governing body.

(b) The chief executive of each political subdivision, with the concurrence of the subdivision's governing body, may develop mutual aid agreements for reciprocal emergency management aid and assistance. Such agreements shall be consistent with the State emergency management program and plans.

(c) The chief executive officer of each political subdivision, with the concurrence of the governing body and subject to the approval of the Governor, may enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance. These agreements shall be consistent with the State emergency management program and plans.

(d) Mutual aid agreements may include but are not limited to the furnishing or exchange of such supplies, equipment, facilities, personnel and services as may be needed; the reimbursement of costs and expenses for equipment, supplies, personnel and similar items; and on such terms and conditions as deemed necessary."

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

HOUSE BILL 379:
Allows Mutual Aid Between State & Local Gov

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	April 3, 2009
Introduced by:	Reps. Martin, Wainwright	**Prepared by:**	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: House Bill 379 allows the Governor to establish mutual aid agreements with political subdivisions in the State.

[As introduced, this bill was identical to S254, as introduced by Sen. Snow, which is currently in Senate State and Local Government.]

CURRENT LAW:

G.S. 166A-5(1)a.5. authorizes the Governor to make, amend, or rescind mutual aid agreements in accordance with G.S. 166A-10.

G.S. 166A-10 provides for the following:

- Allows the Governor, within the scope of authority, to establish mutual aid agreements with other states and with the federal government.
- Allows the chief executive of each political subdivision, with the concurrence of the subdivision's governing body, to develop mutual aid agreements for reciprocal emergency management aid and assistance as long as they are consistent with the State emergency management program and plans. Allows the chief executive officer of each political subdivision, with the concurrence of the governing body, and subject to the approval of the Governor, to enter into mutual aid agreements with local chief executive officers in other states for reciprocal emergency management aid and assistance.
- Allows mutual aid agreements to include, but not be limited to, furnishing or exchanging, or the reimbursement of costs and expenses for: supplies, equipment, facilities, personnel and services.

BILL ANALYSIS:

House Bill 379 amends G.S. 166A-10 by adding a new subsection to expand the Governor's authority regarding the establishment of mutual aid agreements. Currently, the Governor can establish mutual aid agreements with other states and the federal government. This bill would allow the Governor, with the concurrence of the subdivision's governing body, to establish mutual aid agreements with political subdivisions in the State.

The bill also amends G.S. 166A-10(c) to specify that mutual aid agreements between a chief executive officer of a political subdivision and a local chief executive officer in other states must be consistent with the State emergency management program and plans.

EFFECTIVE DATE:

This act is effective when it becomes law.

H379-SMSH-49(e1) v1

HOUSE BILL 723

Short Title:	Electronic Reporting of Abandoned Property.-AB	(Public)
Sponsors:	Representatives Tucker; and Hughes.	
Referred to:	State Government/State Personnel, if favorable, Judiciary III.	

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE HOLDERS OF ABANDONED PROPERTY WITH FIFTY OR MORE PROPERTY OWNER RECORDS TO FILE ELECTRONICALLY WITH THE OFFICE OF THE STATE TREASURER, TO ALLOW HOLDERS WITH LESS THAN FIFTY PROPERTY OWNER RECORDS TO FILE ELECTRONICALLY, AND TO ALLOW HOLDERS REPORTING ELECTRONICALLY TO FILE AN ELECTRONIC AFFIDAVIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-60 reads as rewritten:

"**§ 116B-60. Report of abandoned property; certification by holders with tax return.**

(a) A holder of property presumed abandoned shall make a report to the Treasurer concerning the property. Holders reporting 50 or more property owner records shall file the report in an electronic format prescribed by the National Association of Unclaimed Property Administrators and approved by the Treasurer. Holders reporting less than 50 property owner records may file the report electronically. Holders reporting electronically may file an electronically signed affidavit in order to comply with subsection (f) of this section.

(b) The report must be verified and must contain:

(1) A description of the property;

(2) Except with respect to a traveler's check or money order, the name, if known, and last known address, if any, and the social security number or taxpayer identification number, if readily ascertainable, of the apparent owner of property of the value of fifty dollars ($50.00) or more;

(3) An aggregated amount of items valued under fifty dollars ($50.00) each;

(4) In the case of an amount of fifty dollars ($50.00) or more held or owing under an annuity or a life or endowment insurance policy, the full name and last known address of the annuitant or insured and of the beneficiary;

(5) The date, if any, on which the property became payable, demandable, or returnable, and the date of the last transaction or communication with the apparent owner with respect to the property; and

(6) Other information that the Treasurer by rule prescribes as necessary for the administration of this Chapter.

(c) If a holder of property presumed abandoned is a successor to another person who previously held the property for the apparent owner or the holder has changed its name while holding the property, the holder shall file with the report its former names, if any, and the known names and addresses of all previous holders of the property.

(d) The report must be filed before November 1 of each year and cover the 12 months next preceding July 1 of that year, but a report with respect to a life insurance company must be filed before May 1 of each year for the calendar year next preceding.

(e) Before the date for filing the report, the holder of property presumed abandoned may request the Treasurer to extend the time for filing the report. A request for an extension for filing a report shall be accompanied by an extension processing fee of ten dollars ($10.00). The Treasurer may grant the extension for good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which terminates the accrual of additional interest on the amount paid.

(f) The holder of property presumed abandoned shall file with the report an affidavit stating that the holder has complied with G.S. 116B-59.

(g) Every business association holding property presumed abandoned under this Chapter shall certify the holding in the income tax return required by Chapter 105 of the General Statutes. The certification shall be a part of the tax return with which it is filed. If the business association is not required to file an income tax return under Chapter 105, the certification shall be made in the form and manner required by the Secretary of Revenue. The information appearing on the certification is not privileged or confidential, and this information shall be furnished by the Secretary of Revenue to the Escheat Fund on October 1 of each year, or if this date shall fall on a weekend or holiday, on the next regular business day."

SECTION 2. This act becomes effective October 1, 2009.

HOUSE BILL 723: Electronic Reporting of Abandoned Property.- AB

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary III	**Date:**	April 6, 2009
Introduced by:	Rep. Tucker	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 723 would require the holder of abandoned property with fifty or more owner records to file electronically with the State Treasurer. The bill would allow holders with less than fifty property owner records to file electronically and to allow all holders who file reports electronically to also file a signed affidavit electronically.***

CURRENT LAW:

Under current law, a holder of abandoned property is required to file a report with the Treasurer concerning the property. The report must include:

1. A description of the property.
2. Identifying information about the property owner if the property value is $50.00 or more, except for traveler's checks and money orders.
3. An aggregated amount of items valued under $50.00 each.
4. In the case of an annuity or life insurance policy valued at $50.00 or more, the name and address of the insured and the beneficiary.
5. The date the property became payable and the date of the last communication with the owner.
6. Other information deemed necessary by the Treasurer.

The holder of the property must also file an affidavit that the holder has made a good faith effort to locate the apparent owner as provided by law.

BILL ANALYSIS:

House Bill 723 requires that holders who report 50 or more property owner records must file the report electronically in a format prescribed by the National Association of Unclaimed Property Administrators and approved by the Treasurer. Holders reporting less than 50 property owner records may file the report electronically, and any holder who files the report electronically may also file the signed affidavit electronically.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

23-SMRO-24(e1) v1

VISITOR REGISTRATION SHEET

Local & State Government — 4/7/09

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dennis Patterson	OSA
Dick Barnes	OSA
Doug Hoell	NCEM / CCPS
Rob Black	Teamsters
Michael Hutson	MWC
Chris Church	CFS, Inc.
Megan West	law student
Ben Eyrich	Law Student
Allen Martin	State Treasurer
James B Blackburn	Friend of Allie's
John Hardin	State Treas

VISITOR REGISTRATION SHEET

State government/State personnel — April 7, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Steve Wall	DENR
Sohail	
Bruce Thomson	Purdue ACC

Minutes
House Committee on State Government/State Personnel
Tuesday, April 14, 2009

The House Committee on State Government/State Personnel met on Tuesday, April 14, 2009, at 2:00 PM in Room 424 Legislative Office Building. In addition to chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines, Toussiant Avent, Henry Worth and Gerald Perry. Pages for the meeting were Conner Rosenow of Alamance County, sponsored by Representative Bordsen; Joe Meyerson of Guilford County, sponsored by Representative Jeffus; Leighann Scheetz of Brunswick County, sponsored by Representative Stiller; Lauren Boyette of Guilford County, sponsored by Representative Wiley; and John Manigo of Cumberland County, sponsored by Representative Floyd.

The following bills were heard:

House Bill 1172, Take Voluntary Furloughs/State Gov. & Schools. Representative Owens explained the bill, which would authorize the Governor to implement a voluntary furlough program when there is a significant budget deficit. Representative Mobley offered an amendment that would extend the provisions of this bill "to all exempt and nonexempt employees in the executive, legislative, and judicial branches; to employees of the University of North Carolina; to employees of the North Carolina Community College System, and to employees of local school administrative units." The amendment was accepted. Representative Killian moved for a favorable report to the committee substitute bill, unfavorable to the original bill, and recommendation that the PCS be re-referred to the Committee on Appropriations. The motion carried.

House Bill 708, Furlough of State Employees. Representative Rapp explained his bill. Following a lengthy discussion, the Chairman announced that the bill would be held over for a future meeting.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1172 A BILL TO BE ENTITLED AN ACT ALLOWING STATE EMPLOYEES AND PUBLIC SCHOOL PERSONNEL TO TAKE VOLUNTARY FURLOUGHS TO EFFECT NECESSARY ECONOMIES IN STATE EXPENDITURES, THEREBY REDUCING THE NEED FOR REDUCTIONS IN FORCE AND MANDATORY FURLOUGHS DURING THE CURRENT AND ANY FUTURE ECONOMIC CRISIS.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, April 14, 2009
2:00 PM
Room 424 LOB

I. Agenda Items

HB 467	Auditor Ex Officio Duties. Representative Tucker
SB 332	Zoo and Zoo Funds Modifications. Senator Brunstetter
HB 1172	Take Voluntary Furloughs/State Gov. & Schools. Representatives Owens and Gibson
HB 708	Furlough of State Employees. Representatives Rapp, Glazier, and Dickson

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1172
PROPOSED COMMITTEE SUBSTITUTE H1172-PCS10861-LR-5

Short Title: Take Voluntary Furloughs/State Gov. & Schools. (Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT ALLOWING PUBLIC EMPLOYEES TO TAKE VOLUNTARY FURLOUGHS TO EFFECT NECESSARY ECONOMIES IN STATE EXPENDITURES, THEREBY REDUCING THE NEED FOR REDUCTIONS IN FORCE AND MANDATORY FURLOUGHS DURING THE CURRENT AND ANY FUTURE ECONOMIC CRISIS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"**§ 126-8.6. Voluntary furloughs.**

(a) The following definitions apply in this section:

(1) Essential position. – Any position deemed by the head of a public agency to be necessary to perform the critical functions of that agency to protect the health or safety of the agency's employees, students, clients, or patients or to protect the general public.

(2) Nonessential position. – Any position in a public agency not designated as an essential position by the head of the public agency.

(3) Public agency. – A State agency, department, or institution; and the executive, legislative, and judicial branches of State government; The University of North Carolina; the North Carolina Community College System; and local school administrative units.

(4) Public employee. – An employee employed by a public agency.

(5) Voluntary furlough. – A temporary voluntary period of leave from employment without pay up to a maximum of 30 days per fiscal year for nonessential positions and a maximum of 10 days per fiscal year for essential positions.

(b) The Governor may affect necessary economies in State expenditures by authorizing voluntary furloughs of public employees. Prior to authorizing voluntary furlough of public employees, the Governor shall determine that a voluntary furlough program is reasonable and necessary to meet the important public purpose of balancing the budget. The Governor may create incentives to encourage State employees to take voluntary furloughs.

(c) Notwithstanding any other provision of law, a public employee on a voluntary furlough who is:

(1) A member of any of the retirement plans administered by the Retirement Systems Division of the Department of the State Treasurer shall be

considered in active service during any period of voluntary furlough and shall be entitled to the same benefits to which the public employee was entitled on the workday immediately preceding the furlough. During a voluntary furlough period, the public employer shall pay both employee and employer contributions to the Retirement Systems Division on behalf of the voluntarily furloughed employee as though the employee were in active service.

(2) A member of the State Health Plan for Teachers and State Employees shall be considered eligible for coverage under the Plan on the same basis as on the workday immediately preceding the furlough. The public employer shall pay contributions on behalf of the voluntarily furloughed employee as though the employee were in active service.

(d) Public employees in essential positions are eligible to participate in the voluntary furlough program only if specifically authorized by the head of the public agency."

SECTION 2. G.S. 126-5 is amended by adding the following subsection to read:

"(c12) Notwithstanding any other provision of this section, the provisions of G.S. 126-8.6 shall apply to all exempt and nonexempt employees in the executive, legislative, and judicial branches; to employees of The University of North Carolina; to employees of the North Carolina Community College System; and to employees of local school administrative units."

SECTION 3. The State Personnel Commission, in consultation with the Office of State Budget and Management, shall adopt emergency rules for the implementation of this act in accordance with G.S. 150B-21.1A, except that notwithstanding G.S. 150B-21.1A(d), those emergency rules may remain in effect until July 30, 2010.

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1172

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

H1172-ASH-10 [v.2]

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

Date April 14 ,2009

Representative Mobley

moves to amend the bill on page 2, lines 14-15, by adding the following between the lines:

"**SECTION 2.** G.S. 126-5 is amended by adding the following subdivision to read:

'(c12) Notwithstanding any other provision of this section, the provisions of G.S. 126-8.6 shall apply to all exempt and nonexempt employees in the executive, legislative, and judicial branches; to employees of the University of North Carolina; to employees of the North Carolina Community College System; and to employees of local school administrative units.'";

And by renumbering the remaining sections accordingly.

SIGNED D. W. Mobley
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

HOUSE BILL 1172:
Take Voluntary Furloughs/State Gov. & Schools

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	April 14, 2009
Introduced by:	Reps. Owens, Gibson	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	H1172-CSLR-5		Committee Counsel

SUMMARY: House Bill 1172 authorizes the Governor to implement a voluntary furlough program when there is a significant budget deficit. Furloughed employees would continue to earn retirement credit and be eligible for participation in the State Health Plan.

BILL ANALYSIS:

Section 1 of House Bill 1172 adds a new section to the State Personnel Act entitled "Voluntary furloughs". The provision allows the Governor to authorize the voluntary furlough of public employees when the Governor determines that a significant budget deficit will occur and that a furlough program is reasonable and necessary to meet the important public purpose of balancing the budget. The Governor may create incentives for public employees to take furloughs.

The term "voluntary furlough" is defined as "a temporary voluntary period of leave from employment without pay up to a maximum of 30 days per fiscal year for nonessential employees and a maximum of 10 days per fiscal year for essential employees." "Public agency" is defined to include the executive, legislative, and judicial branches; The University of North Carolina; the North Carolina Community College System; and local school administrative units.

The bill provides that a furloughed employee who is a member of a public retirement system will be considered in active service during any period of furlough and will be entitled to the same benefits available to the employee before the furlough. The employer must pay all contributions to the Retirement System as though the employee were in active service. Similarly, furloughed employees continue coverage under the State Health Plan on the same basis as before the furlough and the employer must continue to pay contributions.

Section 2 directs the State Personnel Commission to adopt emergency rules necessary for the implementation of the voluntary furlough program. Under the Administrative Procedures Act, emergency rulemaking is usually limited to rules involving serious and unforeseen threats to public health and safety. Emergency rules can be adopted without the usual public notice and hearing and can be made effective in six business days. Under current law, emergency rules can only remain in effect for 60 days unless the agency has proceeded with temporary rulemaking which provides for notice, a hearing and review by the Rules Review Commission. This bill allows any emergency rules adopted under this section to remain in effect until July 30, 2010.

EFFECTIVE DATE: This act is effective when it becomes law.

HOUSE BILL 1172

Short Title:	Take Voluntary Furloughs/State Gov. & Schools.	(Public)
Sponsors:	Representatives Owens, Gibson (Primary Sponsors); Faison, Glazier, Goforth, and Lucas.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 8, 2009

A BILL TO BE ENTITLED

AN ACT ALLOWING STATE EMPLOYEES AND PUBLIC SCHOOL PERSONNEL TO TAKE VOLUNTARY FURLOUGHS TO EFFECT NECESSARY ECONOMIES IN STATE EXPENDITURES, THEREBY REDUCING THE NEED FOR REDUCTIONS IN FORCE AND MANDATORY FURLOUGHS DURING THE CURRENT AND ANY FUTURE ECONOMIC CRISIS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"**§ 126-8.6. Voluntary furloughs.**

(a) The following definitions apply in this section:

(1) State agency. – A State agency, department, or institution; in the executive branch of State government. The term includes The University of North Carolina and the North Carolina Community College System.

(2) Essential positions. – Any position deemed by the head of a State agency to be necessary to perform the critical functions of that agency to protect the health or safety of the agency's employees, clients, or patients of the State agency or to protect the general public.

(3) Voluntary furlough. – A temporary voluntary period of leave from employment without pay up to a maximum of 20 days per fiscal year for nonessential positions and a maximum of 10 days per fiscal year for essential positions.

(4) Nonessential positions. – Those positions in a State agency not designated as essential positions by the head of the State agency.

(b) The Governor may affect necessary economies in State expenditures by authorizing voluntary furloughs of State employees. Prior to authorizing voluntary furlough of employees, the Governor shall determine that a voluntary furlough program is reasonable and necessary to meet the important public purpose of balancing the budget. The Governor shall consult with each State agency head to determine whether to implement a voluntary furlough for the entire State agency or within one or more designated units of the State agency.

(c) Notwithstanding any other provision of law, a State employee on a voluntary furlough who is:

(1) A member of any of the retirement plans administered by the Retirement Systems Division of the Department of the State Treasurer shall be considered in active service during any period of voluntary furlough and shall be entitled to the same benefits to which the employee was entitled on

the workday immediately preceding the furlough. During a voluntary furlough period, the employer shall pay both employee and employer contributions to the Retirement Systems Division on behalf of the voluntarily furloughed employee as though the employee were in active service.

(2) A member of the State Health Plan for Teachers and State Employees shall be considered eligible for coverage under the Plan on the same basis as on the workday immediately preceding the furlough. The employer shall pay contributions on behalf of the voluntarily furloughed employee as though the employee were in active service.

The provisions of this subsection apply to all voluntary furloughs whether in a State agency, the legislative or judicial branches of State government, or in a local school administrative unit.

(e) Employees in essential positions are eligible to participate in the voluntary furlough program only if specifically authorized by the head of the State agency.

(f) State agencies with employees not subject to the State Personnel Act shall adopt emergency rules substantially equivalent to the rules of the State Personnel Commission. To the extent possible, State agencies shall ensure that all voluntarily furloughed employees are subject to the same rules. The Office of State Personnel shall provide technical assistance to State agency heads to expedite implementation of a voluntary furlough program."

SECTION 2. G.S. 7A-343 is amended by adding a new subdivision to read:

"(11) Upon a determination by the Chief Justice that the voluntary furlough of judicial employees is necessary to affect economies in State expenditures, the Director shall implement a voluntary furlough program for employees of the Judicial Department. Judicial employees who are on a voluntary furlough pursuant to this subdivision shall be entitled to the benefits provided to State employees by G.S. 126-8.6(c). For purposes of this subdivision, the term 'voluntary furlough' has the same meaning as set forth in G.S. 126-8.6(a)(3)."

SECTION 3. G.S. 115C-47 is amended by adding a new subdivision to read:

"(51) To Allow Voluntary Furloughs. – Local boards of education are authorized to provide for the voluntary furlough of employees upon their determination that the voluntary furlough of public school personnel is necessary to affect economies in expenditures. Public school personnel who are on a voluntary furlough pursuant to this subdivision shall be entitled to the benefits provided to State employees by G.S. 126-8.6(c). For purposes of this subdivision, the term 'voluntary furlough' has the same meaning as set forth in G.S. 126-8.6(a)(3)."

SECTION 4. G.S. 120-32 is amended by adding a new subdivision to read:

"(14) Provide for the voluntary furlough of legislative employees, if it determines that the furloughs are necessary to affect economies in State expenditures. Legislative employees who are on a voluntary furlough pursuant to this subdivision shall be entitled to the benefits provided to State employees by G.S. 126-8.6(c). For purposes of this subdivision, the term 'voluntary furlough' has the same meaning as set forth in G.S. 126-8.6(a)(3)."

SECTION 5. The Office of State Personnel, in consultation with the Office of State Budget and Management, shall adopt emergency rules for the implementation of this act in accordance with G.S. 150B-21.1A, except that notwithstanding G.S. 150B-21.1A(d), those emergency rules may remain in effect until July 30, 2010.

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

VISITOR REGISTRATION SHEET

STATE GOV./STATE PERSONNEL — April 14, 2009
Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Hoegemeyer	State Auditor
Dick Barnes	State Auditor
Michael Hutson	MWC
Jim Steegall	U.C.P.S.
Jennifer Willis	NCCCS
Jennifer Haygood	NCCCS
Andrew Harvard	STUDENT
Boyd T Worley	
Jonathan D Rhyne	Rep. Rick Glazier
Erin Schuettpelz	UNC-GA
Anita Watkins	UNC GA

VISITOR REGISTRATION SHEET

STATE GOV./STATE PERSONNEL — APRIL 14, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ann Maddock	Governor's Off.
Jan Harrison	WCPSS
Mary Stephenson	Dept. of Correction
Elizabeth Biser	DENR
Alice Garland	NCEL
Phillip Gilbs	Cumberland Co.
Courtney Crowder	Office of the Governor
Jessica Hyer	Ed Consultant

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura Luger	UNC GA
Neal Sutton	guest
Carl Dean	OSP

Minutes
House Committee on State Government/State Personnel
Tuesday, April 21, 2009

The House Committee on State Government/State Personnel met on Tuesday, April 14, 2009, at 2:00 PM in Room 424 Legislative Office Building. In addition to chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Dusty Rhodes, Tom Wilder and Young Soon Bae. Pages for the meeting were Cory Chandler of Sampson County and Raye Fair of Lee County, both sponsored by Tarheel Challenge.

Representative Blackwood was recognized to explain his bill, **House Bill 1141, DOA/Examine Ownership of State Land**. Representative Harrell made a motion that the bill receive a favorable report and recommendation that it be re-referred to the Committee on Appropriations. The motion carried.

Representative Folwell was called on to explain his bill, **House Bill 1014, Organ Donation Month**. Following discussion, Representative Harrell moved for a favorable report for the bill. The motion was adopted.

Chairman Wilkins recognized Representative Folwell to explain his **House Bill 1221, Develop State Employee Benefits Statement**. Upon motion by Representative Mobley, the proposed committee substitute (PCS) was adopted for discussion. Following discussion, Representative Womble moved for a favorable report as to the committee substitute bill, which changed the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Pensions and Retirement. The motion carried.

Representative Weiss was called on to explain her bill, **House Bill 86, Off-Road Vehicle Trust Fund**. Upon motion by Representative Burr, the proposed committee substitute (PCS) was adopted for discussion. Following discussion, Representative Mackey moved for a favorable report as to the committee substitute bill, which changed the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Finance. The motion carried.

Representative Glazier was recognized to explain his bill, **House Bill 1171, Law Student Externs at General Assembly**. Following discussion, Representative Mackey moved for a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary II. The motion carried.

The meeting adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1141 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF ADMINISTRATION TO CONDUCT A STUDY TO IDENTIFY THE OWNERSHIP OF PUBLIC LAND IN NORTH CAROLINA.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1014 A BILL TO BE ENTITLED AN ACT ESTABLISHING ORGAN DONATION AWARENESS MONTH.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1221 A BILL TO BE ENTITLED AN ACT DIRECTING THE OFFICE OF STATE PERSONNEL TO DEVELOP AN EMPLOYEE BENEFITS STATEMENT THAT REFLECTS THE CURRENT VALUE OF EMPLOYEE BENEFITS PROVIDED TO STATE EMPLOYEES.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on PENSIONS AND RETIREMENT.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 86 A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL-TERRAIN VEHICLES AND MOTORCYCLES THAT ARE USED AS OFF-ROAD VEHICLES TO BE REGISTERED WITH THE DIVISION OF MOTOR VEHICLES, TO CREATE A NONREVERTING REVENUE FUND IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES DESIGNATED AS THE OFF-ROAD VEHICLE TRUST FUND TO BE USED TO PROVIDE ALL-TERRAIN VEHICLE SAFETY TRAINING, ACQUIRE NEW LANDS, MANAGE LANDS, AND DEVELOP OFF-ROAD VEHICLE PARKS, TRAILS, AND FACILITIES, AND TO CREATE A NEW OFF-ROAD RECREATION PROGRAM.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 1171 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT LAW STUDENT EXTERNS AT THE GENERAL ASSEMBLY ARE SUBJECT TO LEGISLATIVE CONFIDENTIALITY.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY II.

(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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, April 21, 2009
2:00 PM
Room 424 LOB

I. Agenda Items

HB 708	**Furlough of State Employees.** Bill displaced **Representatives Rapp, Glazier and Dickson**
HB 1141	**DOA/Examine Ownership of State Land.** **Representatives Allen and Blackwood**
HB 1014	**Organ Donation Month.** **Representatives Folwell, Holliman, Wainwright and Burris-Floyd**
HB 1221	**Develop State Employee Benefits Statement.** **Representatives Folwell, Crawford, Gibson and Avila**
HB 86	**Off-Road Vehicle Trust Fund.** **Representatives Weiss, Crawford, Brubaker, and Alexander**
HB 746	**Amend Professional Counselors Act/Fees.** **Representative Insko**
HB 1171	**Law Student Externs at General Assembly.** Bill displaced **Representatives Glazier, Tarleton, Harrison and Rapp.**

II. Discussion

III. Adjourn

HOUSE BILL 1141

Short Title:	DOA/Examine Ownership of State Land.	(Public)
Sponsors:	Representatives Allen, Blackwood (Primary Sponsors); Harrison, Jones, and Lucas.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF ADMINISTRATION TO CONDUCT A STUDY TO IDENTIFY THE OWNERSHIP OF PUBLIC LAND IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Administration, State Property Office, shall study issues related to the ownership of public land located in North Carolina. In conducting its study, the Department of Administration shall determine the following:

(1) The acreage and percentage of North Carolina's land mass owned by the federal government, including federal parks, military bases, and national forests, divided into appropriate subcategories.

(2) The acreage and percentage of North Carolina's land mass owned by the State, including parks, forests, public universities and colleges, community colleges, mitigation land, North Carolina Railroad, the Ports Authority, and the Department of Transportation.

(3) The acreage and percentage of North Carolina's land mass owned by municipalities, counties, public school districts, and other governmental entities.

SECTION 2. The Department of Administration shall submit a report of its findings listed by county to the House of Representatives Committee on Environment and Natural Resources and the Senate Committee on Agriculture, Environment, and Natural Resources by May 1, 2010.

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

HOUSE BILL 1141:
DOA/Examine Ownership of State Land

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	April 21, 2009
Introduced by:	Reps. Allen, Blackwood	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	First Edition		

SUMMARY: ***House Bill 1141 would require the Department of Administration, State Property Office, to study issues related to the ownership of public land located in North Carolina.***

House Bill 1141 has a serial referral to Appropriations.

BILL ANALYSIS: In a study of issues related to the ownership of public land located in North Carolina, the Department of Administration must determine the acreage and percentage of North Carolina's land mass owned by each of the following:

- The federal government, including federal parks, military bases, and national forests, divided into the appropriate subcategories;
- The State, including parks, forests, public universities and colleges, community colleges, mitigation land, North Carolina Railroad, the Ports Authority, and the Department of Transportation; and
- Municipalities, counties, public school districts, and other governmental entities.

The Department of Administration would report its findings by county to the House Environment Committee and the Senate Agriculture, Environment, and Natural Resources Committee by May 1, 2010.

EFFECTIVE DATE: This act would become effective when it becomes law.

H1141-SMSF-34(e1) v1

HOUSE BILL 1014

Short Title:	Organ Donation Month.	(Public)
Sponsors:	Representatives Folwell, Holliman, Wainwright, Burris-Floyd (Primary Sponsors); Dockham, Gillespie, Glazier, Harrison, Hughes, Hurley, Jackson, Lucas, Neumann, Pierce, Samuelson, Tarleton, and Wray.	
Referred to:	State Government/State Personnel.	

April 2, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING ORGAN DONATION AWARENESS MONTH.

Whereas, the Heart Prevails legislation was introduced by State Representatives Dale Folwell, Hugh Holliman, Debbie Clary, and William Wainwright and signed into law by Governor Michael F. Easley in 2007, and

Whereas, North Carolina may have had one of the single largest increases in organ donation transplants in the United States in 2008; and

Whereas, 180 people died in 2008 in North Carolina waiting for a transplant; and

Whereas, more than 3,000 North Carolinians are currently on the waiting list for organ donation; and

Whereas, one tissue donation can save or improve the lives of as many as 50 people; and

Whereas, one organ donor can save the lives of up to eight people; and

Whereas, according to the North Carolina Eye Bank there was over a 50% increase in corneal transplants in 2008 in North Carolina; and

Whereas, the Heart Prevails legislation was supported by the North Carolina Hospital Association, North Carolina Medical Society, North Carolina Hospice, North Carolina Eye and Tissue Bank, North Carolina Funeral Home Examining Board, North Carolina Medical Examiner, North Carolina Department of Motor Vehicles, Mrs. United States of America 2006–Shannon Devine, North Carolina Trial Lawyers, and various organ procurement organizations; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Organ Donation Awareness Month.**

The month of April of each year is designated as Organ Donation Awareness Month in North Carolina."

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

HOUSE BILL 1014: Organ Donation Month

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	April 17, 2009
Introduced by:	Reps. Folwell, Holliman, Wainwright, Burris-Floyd	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	First Edition		

SUMMARY: ***House Bill 1014 designates the month of April each year as Organ Donation Awareness Month.***

CURRENT LAW:

Chapter 103 of the General Statutes is titled: Sundays, Holidays and Special Days.

G.S. 103-6 through G.S. 103-11 designate the following as Special Days/Weeks or Months in North Carolina:

Citation	Designation	Date
G.S. 103-6	Arbor Week	The week in March containing March 15
G.S. 103-7	American Family Day	The first Sunday in August
G.S. 103-8	Indian Solidarity Week	The last full week in September
G.S. 103-9	Prisoner of War Day	April 9
G.S. 103-10	Pearl Harbor Remembrance Day	December 7
G.S. 103-11	Disability History and Awareness Month	October

Recent Designations Considered by this Committee:

- The House State Government/State Personnel Committee gave a favorable report to House Bill 696 Motorcycle Awareness Month on 4/1/09 and it has been referred to Committee on Rules and Operations of the Senate.
- The House State Government/State Personnel Committee gave a favorable report to HB 596 Designate April as Woodworking Month on 4/1/09 and it has been referred to the Committee on Rules and Operations of the Senate.

S.L. 2007-538 (HB 1372 Organ & Tissue Donation/The Heart Prevails) - Revised uniform anatomical gift act; provided that the decision to have the heart symbol on one's drivers license is legally sufficient consent to organ donation unless revoked by the donor; improved donor or prospective donor online access to indicate or revoke organ and tissue donation; made conforming changes to other affected General Statutes.

BILL ANALYSIS: House Bill 1014 adds a new section to Chapter 103 of the General Statutes to designate the month of April as Organ Donation Awareness Month.

EFFECTIVE DATE: House Bill 1014 would become effective when it becomes law.

Shirley Iorio contributed to this summary.
H1014-SMSH-66(e1) v2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1221
PROPOSED COMMITTEE SUBSTITUTE H1221-PCS80352-SH-30

Short Title: Develop Employee Benefits Statement. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT DIRECTING THE OFFICE OF STATE PERSONNEL, DEPARTMENT OF PUBLIC INSTRUCTION, NORTH CAROLINA COMMUNITY COLLEGES, AND THE UNIVERSITY OF NORTH CAROLINA TO DEVELOP AN EMPLOYEE BENEFITS STATEMENT THAT REFLECTS THE CURRENT VALUE OF EMPLOYEE BENEFITS PROVIDED TO STATE, PUBLIC SCHOOL, AND COMMUNITY COLLEGE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. The Office of State Personnel, Department of Public Instruction, North Carolina Community Colleges, and the University of North Carolina shall conduct a study on development of an employee benefits statement that reflects the current value of employee benefits provided to active State employees, public school employees, and community college employees. For the purposes of this act, the term "benefits statement" means a document showing an employee's total compensation, including all cash income, and the value of all employee benefits.

SECTION 2. The personalized benefits statement developed for individual State employees, public school employees, and community college employees must include a determination of at least the value of:

(1) Employee and dependent coverage under the State Health Plan for Teachers and State Employees.

(2) Employee and survivors coverage under the Teachers' and State Employees' Retirement System.

SECTION 3. The Office of State Personnel, Department of Public Instruction, North Carolina Community Colleges, and the University of North Carolina shall submit an interim report to the General Assembly and to the Fiscal Research Division on or before December 31, 2009, and a detailed written report on the development of the employee benefits statement, including a recommended implementation schedule and an estimate of the costs of any information technologies or modifications necessary to generate the statements on or before June 30, 2010.

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

HOUSE BILL 1221:
Develop State Employee Benefits Statement

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Pensions and Retirement, if favorable, Appropriations	**Date:**	April 21, 2009
Introduced by:	Reps. Folwell, Crawford, Gibson, Avila	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition H1221-CSSH-30		

SUMMARY: ***House Bill 1221 requires the Office of State Personnel to conduct a study and submit a report to the General Assembly regarding the implementation of employee benefits statements reflecting the value of benefits provided to State employees.***

The Proposed Committee Substitute adds the Department of Public Instruction, North Carolina Community Colleges, and the University of North Carolina to the study and amends the reporting requirements.

BILL ANALYSIS:

Section 1 of the PCS for House Bill 1221 requires the Office of State Personnel, Department of Public ıstruction, NC Community Colleges, and University of North Carolina, to conduct a study on the evelopment of personalized employee benefits statements for State employees. The benefits statement would include an employee's total compensation, including all cash income, and the value of employee benefits.

Section 2 requires the individualized benefits statement at a minimum to include the value of:

- Employee and dependent coverage under the State Health Plan for Teachers and State Employees.
- Employee and survivors coverage under the Teachers' and State employees' Retirement System.

Section 3 requires the Office of State Personnel, Department of Public Instruction, NC Community Colleges and the University of North Carolina to submit and interim report to the General Assembly and the Fiscal Research Division on or before December 31, 2009, and a detailed written report on the development of the employee benefits statement, including a recommended implementation schedule and an estimate of the costs of any information technologies or modifications necessary to generate the statements on or before June 30, 2010.

EFFECTIVE DATE:

House Bill 1221 would become effective when it becomes law.

H1221-SMSH-72(CSSH-27) v3

HOUSE BILL 1221

Short Title:	Develop State Employee Benefits Statement.	(Public)
Sponsors:	Representatives Folwell, Crawford, Gibson, Avila (Primary Sponsors); Dollar, Faison, Hurley, Langdon, Lucas, and Spear.	
Referred to:	State Government/State Personnel, if favorable, Pensions and Retirement, if favorable, Appropriations.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT DIRECTING THE OFFICE OF STATE PERSONNEL TO DEVELOP AN EMPLOYEE BENEFITS STATEMENT THAT REFLECTS THE CURRENT VALUE OF EMPLOYEE BENEFITS PROVIDED TO STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. The Office of State Personnel shall conduct a study on development of an employee benefits statement that reflects the current value of employee benefits provided to active State employees. For the purposes of this act, the term "benefits statement" means a document showing an employee's total compensation, including all cash income and the value of all employee benefits.

SECTION 2. The personalized benefits statement developed for individual State employees must include a determination of at least the value of:

(1) Employee and dependent coverage under the State Health Plan for Teachers and State Employees.

(2) Employee, survivors, and dependent coverage under the Teachers' and State Employees' Retirement System.

SECTION 3. The Office of State Personnel shall submit to the General Assembly and to the Fiscal Research Division by December 31, 2009, a detailed written report on the development of the employee benefits statement, including a recommended implementation schedule and an estimate of the costs of any information technologies or modifications necessary to generate the statements.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 86*
PROPOSED COMMITTEE SUBSTITUTE H86-PCS10874-SHf-18

Short Title: ATV & Motorcycles Off-Road Fund. (Public)

Sponsors:

Referred to:

February 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL-TERRAIN VEHICLES AND MOTORCYCLES MEETING CERTAIN CRITERIA TO BE REGISTERED WITH THE DIVISION OF MOTOR VEHICLES, TO CHARGE A REGISTRATION FEE FOR ALL-TERRAIN VEHICLES OR MOTORCYCLES REGISTERED FOR OFF-ROAD USE, TO CREATE A SPECIAL REVENUE FUND IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES DESIGNATED AS THE ALL-TERRAIN VEHICLE AND MOTORCYCLE OFF-ROAD FUND TO BE USED FOR ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF ALL-TERRAIN VEHICLE AND MOTORCYCLE RECREATION TRAILS AND TO PROVIDE SAFETY TRAINING FOR OPERATORS OF ALL-TERRAIN VEHICLES AND MOTORCYCLES REGISTERED FOR OFF-ROAD USE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-50 is amended by adding a new subsection to read:

"**§ 20-50. Owner to secure registration and certificate of title; temporary registration markers.**

(a) A vehicle intended to be operated upon any highway of this State must be registered with the Division in accordance with G.S. 20-52, and the owner of the vehicle must comply with G.S. 20-52 before operating the vehicle. A vehicle that is leased to an individual who is a resident of this State is a vehicle intended to be operated upon a highway of this State.

The Commissioner of Motor Vehicles or the Commissioner's duly authorized agent is empowered to grant a special one-way trip permit to move a vehicle without license upon good cause being shown. When the owner of a vehicle leases the vehicle to a carrier of passengers or property and the vehicle is actually used by the carrier in the operation of its business, the license plates may be obtained by the lessee, upon written consent of the owner, after the certificate of title has been obtained by the owner. When the owner of a vehicle leases the vehicle to a farmer and the vehicle is actually used by the farmer in the operation of a farm, the license plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner. The lessee shall make application on an appropriate form furnished by the Division and file such evidence of the lease as the Division may require.

(a1) Except for vehicles exempted from registration under G.S. 20-51 or used primarily for agricultural purposes or by law enforcement, fire, rescue, and emergency medical service

personnel in the performance of their duties, an all-terrain vehicle or motorcycle that meets all of the following criteria shall be registered with the Division pursuant to G.S. 20-63.2:

(1) The all-terrain vehicle or motorcycle is not otherwise required to be registered.

(2) The all-terrain vehicle or motorcycle was manufactured in the year 2005 or later.

(3) The all-terrain vehicle or motorcycle is intended for off-road operation.

(b) The Division may issue a temporary license plate for a vehicle. A temporary license plate is valid for the period set by the Division. The period may not be less than 10 days nor more than 60 days.

A person may obtain a temporary license plate for a vehicle by filing an application with the Division and paying the required fee. An application must be filed on a form provided by the Division.

The fee for a temporary license plate that is valid for 10 days is five dollars ($5.00). The fee for a temporary license plate that is valid for more than 10 days is the amount that would be required with an application for a license plate for the vehicle. If a person obtains for a vehicle a temporary license plate that is valid for more than 10 days and files an application for a license plate for that vehicle before the temporary license plate expires, the person is not required to pay the fee that would otherwise be required for the license plate.

A temporary license plate is subject to the following limitations and conditions:

(1) It may be issued only upon proper proof that the applicant has met the applicable financial responsibility requirements.

(2) It expires on midnight of the day set for expiration.

(3) It may be used only on the vehicle for which issued and may not be transferred, loaned, or assigned to another.

(4) If it is lost or stolen, the person who applied for it must notify the Division.

(5) It may not be issued by a dealer.

(6) The provisions of G.S. 20-63, 20-71, 20-110 and 20-111 that apply to license plates apply to temporary license plates insofar as possible."

SECTION 2. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-63.2. Registration of all-terrain vehicles and motorcycles for off-road use.**

(a) An all-terrain vehicle or motorcycle registered for off-road use only shall be registered in the same manner as any other vehicle registered pursuant to this Chapter.

(b) An all-terrain vehicle or motorcycle registered for off-road use shall have a Product Identification Number, or Vehicle Identification Number, which shall be supplied at the time of registration.

(c) An all-terrain vehicle or motorcycle registered for off-road use shall have a manufacturers certificate of origin or title to be registered. An inspection and indemnity bond is required if a manufacturers certificate of origin or title is not available.

(d) An all-terrain vehicle or motorcycle registered for off-road use only shall be issued a registration plate that is different in color or design so that law enforcement officers can easily recognize the registration plate and the fact the vehicle upon which the plate is affixed is to be operated off the roads, streets, and highways of this State. Any all-terrain vehicle or motorcycle registered for off-road use shall be subject to the title and registration fees provided in G.S. 20-85 and G.S. 20-87.

(e) There is no requirement that a vehicle registered for off-road use have insurance on the vehicle or that the owner provide proof of financial responsibility prior to the vehicle being registered.

(f) The Division shall collect any sales and use tax, and any other tax the Division is required to collect pursuant to Chapter 105 of the General Statutes, on an all-terrain vehicle or

motorcycle being registered for off-road use. If the applicant paid the sales and use tax to a dealer in North Carolina, proof of payment to a dealer will be acceptable proof to register the vehicle. If the off-road vehicle was purchased outside of North Carolina, the Division shall collect the applicable sales and use tax and submit it to the Department of Revenue."

SECTION 3. G.S. 20-87 is amended by adding a new subdivision to read:

"**§ 20-87. Passenger vehicle registration fees.**

These fees shall be paid to the Division annually for the registration and licensing of passenger vehicles, according to the following classifications and schedules:

...

(13) Off-Road All-Terrain Vehicles and Motorcycles. – The base fee on an all-terrain vehicle or motorcycle registered for off-road use shall be fifteen dollars ($15.00) except that when an all-terrain vehicle or motorcycle is equipped with an additional device designed to transport persons or property, the base fee shall be twenty-two dollars ($22.00). A fee of ten dollars ($10.00) is imposed on each all-terrain vehicle and motorcycle registered under this subdivision in addition to the base fee. The revenue from the additional fee, in addition to any other funds appropriated for this purpose, shall be used to fund the All-Terrain Vehicle and Motorcycle Off-Road Fund created in G.S. 113A-96."

SECTION 4. Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-96. All-Terrain Vehicle and Motorcycle Off-Road Fund.**

(a) Fund Created. – There is established an All-Terrain Vehicle and Motorcycle Off-Road Fund in the Department of Environment and Natural Resources. The Fund shall be a special revenue fund consisting of all monies from State and private sources. All monies from State and private sources dedicated to all-terrain vehicle and motorcycle recreation trails shall be credited to the Fund.

(b) Use. – Unless otherwise specified by the General Assembly, or the terms and conditions of a gift or grant, funds in the All-Terrain Vehicle and Motorcycle Off-Road Fund shall be allocated and used as follows:

(1) At least seventy-seven percent (77%) shall be used for acquisition, construction, maintenance, and operation of all-terrain vehicle and motorcycle recreation trails and to provide law enforcement on the recreation trails.

(2) Up to twenty percent (20%) shall be used for safety training for operators of all-terrain vehicles and motorcycles registered for off-road use.

(3) Up to three percent (3%) shall be used for administration of the All-Terrain Vehicle and Motorcycle Off-Road Fund."

SECTION 5. Chapter 143B-333 is amended by adding a new subdivision to read:

"**§ 143B-333. North Carolina Trails Committee – creation; powers and duties.**

There is hereby created the North Carolina Trails Committee of the Department of Environment and Natural Resources. The Committee shall have the following functions and duties:

(1) To meet not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of G.S. 113A-88.

(2) To coordinate trail development among local governments, and to assist local governments in the formation of their trail plans and advise the Department of its findings.

(3) To advise the Secretary of trail needs and potentials pursuant to G.S. 113A-88.

(4) To recommend to the Secretary expenditures from the All-Terrain Vehicle and Motorcycle Off-Road Fund in the form of grants to federal, State, and local governments, and to qualified nonprofit organizations, for the acquisition, construction, maintenance, and operation of all-terrain vehicle and motorcycle off-road recreation trails, to provide law enforcement for the trails, and for safety training for the operators of all-terrain vehicles and motorcycles registered for off-road use. Grants shall be recommended based on criteria including environmental protection, public safety, and consistency with other land management plans and purposes."

SECTION 6. G.S. 113A-88 is amended by adding a new subsection to read:

"**§ 113A-88. North Carolina Trails Committee; composition; meetings and functions.**

(a) Repealed by Session Laws 1973, c. 1262, s. 82.

(b) The Committee shall meet in various sections of the State not less than two times annually to advise the Department on all matters directly or indirectly pertaining to trails, their use, extent, location, and the other objectives and purposes of this Article.

(c) The Committee shall coordinate trail development among local governments, and shall assist local governments in the formation of their trail plans and advise the Department quarterly of its findings.

(d) The Secretary, with advice of the Committee, shall study trail needs and potentials, and make additions to the State Trails System as needed. He shall submit an annual report to the Governor and General Assembly on trail activities by the Department, including rights-of-way that have been established and on the program for implementing this Article. Each report shall include a short statement on the significance of the various trails to the System. The Secretary shall make such rules as to trail development, management, and use that are necessary for the proper implementation of this Article.

(e) The Secretary, upon the recommendation of the Committee, shall award grants from the All-Terrain Vehicle and Motorcycle Off-Road Fund to federal, State, and local governments, and to qualified nonprofit organizations, for acquisition, construction, maintenance, and operation of all-terrain vehicle and motorcycle off-road recreation trails, to provide law enforcement for the trails, and for safety training for the operators of all-terrain vehicles and motorcycles registered for off-road use."

SECTION 7. This act becomes effective July 1, 2010.

HOUSE BILL 86*

Short Title:	Off-Road Vehicle Trust Fund.	(Public)
Sponsors:	Representatives Weiss, Crawford, Brubaker, M. Alexander (Primary Sponsors); Adams, Bordsen, Cotham, Dockham, Farmer-Butterfield, Fisher, Hall, Harrison, Insko, Jones, Lucas, Luebke, Mobley, Parmon, Pierce, and Ross.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL-TERRAIN VEHICLES AND MOTORCYCLES THAT ARE USED AS OFF-ROAD VEHICLES TO BE REGISTERED WITH THE DIVISION OF MOTOR VEHICLES, TO CREATE A NONREVERTING REVENUE FUND IN THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES DESIGNATED AS THE OFF-ROAD VEHICLE TRUST FUND TO BE USED TO PROVIDE ALL-TERRAIN VEHICLE SAFETY TRAINING, ACQUIRE NEW LANDS, MANAGE LANDS, AND DEVELOP OFF-ROAD VEHICLE PARKS, TRAILS, AND FACILITIES, AND TO CREATE A NEW OFF-ROAD RECREATION PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-50(a) reads as rewritten:

"(a) A vehicle intended to be operated ~~upon any highway of~~ in this State ~~must~~ shall be registered with the Division in accordance with G.S. 20-52, unless specifically exempted from registration pursuant to G.S. 20-51 or used solely for agricultural purposes, and the owner of the vehicle must comply with G.S. 20-52 before operating the vehicle. A vehicle that is leased to an individual who is a resident of this State is a vehicle intended to be operated ~~upon a highway of~~in this State.

The Commissioner of Motor Vehicles or the Commissioner's duly authorized agent is empowered to grant a special one-way trip permit to move a vehicle without license upon good cause being shown. When the owner of a vehicle leases the vehicle to a carrier of passengers or property and the vehicle is actually used by the carrier in the operation of its business, the license plates may be obtained by the lessee, upon written consent of the owner, after the certificate of title has been obtained by the owner. When the owner of a vehicle leases the vehicle to a farmer and the vehicle is actually used by the farmer in the operation of a farm, the license plates may be obtained by the farmer at the applicable farmer rate, upon written consent of the owner, after the certificate of title has been obtained by the owner. The lessee shall make application on an appropriate form furnished by the Division and file such evidence of the lease as the Division may require."

SECTION 2. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-63.2. Off-Road vehicle registrations.**

(a) Any all-terrain vehicle or motorcycle registered for off-road use only shall be registered in the same manner as any other vehicle registered pursuant to this Chapter. An all-terrain vehicle or motorcycle registered for off-road use only shall be issued a registration plate that is different in color or design so that law enforcement officers can easily recognize the

registration plate and the fact the vehicle upon which the plate is affixed is to be operated off the roads, streets, and highways of this State. Any all-terrain vehicle or motorcycle registered as an off-road vehicle shall be subject to the same title and registration fees as any other vehicle subject to registration under this Chapter.

(b) There is no requirement that a vehicle registered for off-road use have insurance on the vehicle or that the owner provide proof of financial responsibility prior to the vehicle being registered.

(c) The Division shall collect any sales and use tax, and any other tax the Division is required to collect pursuant to Chapter 105 of the General Statutes, on an off-road vehicle being registered. If the applicant paid the sales and use tax to a dealer in North Carolina, proof of payment to a dealer will be acceptable proof to register the vehicle. If the off-road vehicle was purchased outside of North Carolina, the Division shall collect the applicable sales and use tax and submit it to the Department of Revenue."

SECTION 3. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-63.3. Off-Road Vehicle Trust Fund.**

(a) Fund. – The Off-Road Vehicle Trust Fund is hereby created as a special, interest-bearing, and nonreverting fund in the Department of Environment and Natural Resources. The Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(b) Disposition of Fees. – All monies from State, federal, and private sources dedicated to off-road vehicle recreation trails shall be credited to the Off-Road Vehicle Trust Fund. Eighty percent (80%) of the Fund shall be used for repair, expansion, and maintenance of off-road vehicle recreation trails and to provide law enforcement on the recreation trails. Twenty percent (20%) of the Fund shall be used to provide off-road and all-terrain vehicle safety training."

SECTION 4. Chapter 20 of the General Statutes is amended by adding a new section to read:

"**§ 20-63.4. North Carolina Off-Road Vehicle Recreation Program.**

(a) There shall be created within the Department of Environment and Natural Resources a North Carolina Off-Road Vehicle Recreation Program to coordinate the planning, development, and management of public off-road vehicle recreation areas, parks, trails, and facilities.

(b) In consultation with the State land managing agencies, off-road vehicle organizations, the off-road vehicle industry, and environmental organizations, the North Carolina Off-Road Vehicle Recreation Program shall review the inventory of public lands to determine the feasibility of providing public access for off-road vehicle recreation and trails. The Department shall provide a report to the 2010 Regular Session of the 2009 General Assembly by March 1, 2010. The report should include at least two appropriate locations for public access for off-road vehicle recreational use and the applicable cost of providing each facility. The cost section of the report shall fully explain the fiscal approach of renovating, maintaining, and operating each site and include a recommended fee structure to support the ongoing maintenance and operation of the program. The report shall also include the benefits and risks of offering each site for off-road vehicle recreational use."

SECTION 5. G.S. 20-87 is amended by adding a new subdivision to read:

"**§ 20-87. Passenger vehicle registration fees.**

These fees shall be paid to the Division annually for the registration and licensing of passenger vehicles, according to the following classifications and schedules:

...

(13) Off-Road Vehicles. – The base fee on an off-road vehicle shall be fifteen dollars ($15.00) except that when a motorcycle is equipped with an

additional form of device designed to transport persons or property, the base fee shall be twenty-two dollars ($22.00). An additional fee of ten dollars ($10.00) is imposed on each off-road vehicle registered under this subdivision in addition to the base fee. The revenue from the additional fee, in addition to any other funds appropriated for this purpose, shall be used to fund the Off-Road Vehicle Trust Fund created in G.S. 20-63.3."

SECTION 6. This act becomes effective July 1, 2009.

HOUSE BILL 1171

Short Title:	Law Student Externs at General Assembly.	(Public)
Sponsors:	Representatives Glazier, Tarleton, Harrison, Rapp (Primary Sponsors); Faison, Lucas, and Mackey.	
Referred to:	State Government/State Personnel, if favorable, Judiciary II.	

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT LAW STUDENT EXTERNS AT THE GENERAL ASSEMBLY ARE SUBJECT TO LEGISLATIVE CONFIDENTIALITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-29(2) reads as rewritten:

"**§ 120-129. Definitions.**

As used in this Article:

...

(2) "Legislative employee" means employees and officers of the General Assembly, consultants and counsel to members and committees of either house of the General Assembly or of legislative commissions who are paid by State funds, students at an accredited law school while in an externship program at the General Assembly approved by the Legislative Services Commission, and employees of the School of Government at the University of North Carolina at Chapel Hill; but does not mean legislators and members of the Council of State.

...."

SECTION 2. G.S. 120-134 reads as rewritten:

"**§ 120-134. Penalty.**

Violation of any provision of this Article shall be grounds for disciplinary action in the case of ~~employees~~ employees, for referral to the academic institution for appropriate discipline in the case of law student externs, and for removal from office in the case of public officers. No criminal penalty shall attach for any violation of this Article."

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

HOUSE BILL 1171:
Law Student Externs at General Assembly

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary II	**Date:**	April 20, 2009
Introduced by:	Reps. Glazier, Tarleton, Harrison, Rapp	**Prepared by:**	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: House Bill 1171 amends Article 17 of Chapter 120, to extend the provisions pertaining to confidentiality of legislative communications to law students serving in an externship capacity.

CURRENT LAW:

Article 17 of Chapter 120 pertains to the Confidentiality of Legislative Communications

G.S. 120-129 is the definitions section for the Article.

G.S. 120-130 pertains to the drafting and information requests to legislative employees.

G.S. 120-131 pertains to documents produced by legislative employees.

G.S. 131.1 pertains to requests from legislative employees for assistance in the preparation of fiscal notes.

G.S. 120-132 pertains to testimony by legislative employees

G.S. 120-133 pertains to redistricting communications

G.S. 120-134 pertains to the penalty for violation of the Article.

BILL ANALYSIS:

Chapter 120, Article 17, of the General Statutes pertains to the Confidentiality of Legislative Communications.

Section 1 of House Bill 1171 amends the definition of "legislative employee" contained in G.S. 120-129, to include students at an accredited law school while in an externship program at the General Assembly approved by the Legislative Services Commission. The result of this change is that the externship participants would be treated as legislative employees with regard to the confidentiality provisions contained in Article 17.

The change to the definition of legislative employee extends to violations of the provisions contained in Article 17. As such, Section 2 of the bill contains a conforming amendment to G.S. 120-134 to provide that violation of any provision in Article 17 is grounds for referral to the academic institution for appropriate discipline in the case of law student externs.

EFFECTIVE DATE:

House Bill 1171 would become effective when it becomes law.

VISITOR REGISTRATION SHEET

State Govt / State Personnel — 4-21-09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carl Goodwin	OSP
Anita Watkins	UNC GA
Pamela Schore	NCASA
Fred Born	Born & Asso.
Jay Gardner	DMV License + Theft
Allison Rowels	NC DMV
Johanna Reese	DOT
Sally Cameron	NC Psychological Assoc
Jim Stegall	U.C.P.S.
Andy Sebel	NC DOR
Dan Fulcher	NC DOR

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Starling	NCDST
David Vanderweide	NCDST
[illegible]	NCHB
Alice Garland	NCEL
Thomas Smith	DHHS - Div of Soc. Ser.
Chris Brave	Pres. NCMDA Pres Brave Cycles Inc Henderson
Tom Vitarelli Inc	CFTF
Karen Mckee	CFSA
Jack Register	National Assoc Social Workers - NC
Cassandra White	AOC
Carl Dean	OSP

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Casandra White	ADC
Annette Newkirk	Governor's Office
Lisa G. Corbett	NCDOJ
Suzanne Beasley Malysz	SEANC
[illegible]	[illegible]
CAROL TINGLEY	NC DENR - Parks
Michelle Frazier	MF+S
[illegible]	DLC
Penny Griffin	School of Gov.
Suzanne L. Walker	LPC ANC
[illegible]	Events Coordinator

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BEN NIGHT	NYD
Christy Agnew	DOA
	—

VISITOR SPEAKERS SHEET

House Committee on State Government/State Personnel — April 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME (please print)	FIRM OR AGENCY AND ADDRESS
Suzanne Malysz	SEANC
Charles Schaefer	Waynesville NC
H746 Suzanne Walker	LPCANC — Counselors H-746
Tom Vitalliere	CHILD FATALITY TASK FORCE H86
CHRIS BREWER	NC MOTORCYCLE DEALERS ASSN H86

Minutes
House Committee on State Government/State Personnel
Tuesday, April 28, 2009

The House Committee on State Government/State Personnel met on Tuesday, April 28, 2009, at 2:00 PM in Room 424 Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines and Toussaint Avent. Sarai Whittington of Wilkes County, sponsored by Representative Randleman, was Page for the meeting.

Representative Gulley was recognized to explain his bill, **House Bill 1115, Designate Psoriasis Awareness Month**. Representative Justus moved for a favorable report on the bill. The motion was adopted.

Representative Goodwin explained her bill, **House Bill 1112, Amend Birth Registration Requirements**. The Proposed Committee Substitute (PCS) was adopted for discussion. Following discussion, Representative Burr moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Judiciary II. The motion carried.

Representative Goodwin was called on to explain her **House Bill 1271, Clarify Social Services Commission Authority**. Representative Sutton then moved for a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary I. The motion carried.

Representative Blust was asked to explain his bill, **House Bill 1191, Property Finders**. By motion of Representative Womble, the proposed committee substitute (PCS) was adopted for discussion. During the discussion, Allen Martin of the Treasurer's Office spoke on the bill. Representative Womble moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Judiciary I. The motion carried.

Representative Harrison was recognized to speak on her bill, **House Bill 1079, Energy-Efficient State Motor Vehicle Fleet**. By motion of Representative Randleman, the proposed committee substitute bill (PCS) was adopted for discussion. John Policastro of NCAAA spoke favorably on the bill. Vice Chair Harrell then moved for a favorable report as to the Committee substitute bill #2, which changes the title, unfavorable as to Committee Substitute Bill #1. The motion carried.

Representative Insko was recognized to explain her bill, **House Bill 746, Amend Professional Counselors Act/Fees**. Upon motion by Representative Killian, the

proposed committee substitute was adopted for discussion. Following discussion, Representative Wiley moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Finance. The motion was adopted.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1115 A BILL TO BE ENTITLED AN ACT DESIGNATING THE MONTH OF AUGUST AS PSORIASIS AWARENESS MONTH.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1112 A BILL TO BE ENTITLED AN ACT AMENDING BIRTH REGISTRATION REQUIREMENTS TO ALLOW A CHILD'S PUTATIVE FATHER TO BE ENTERED ON THE BIRTH CERTIFICATE OF THE CHILD IF THE MOTHER HAS BEEN LIVING SEPARATE AND APART FROM HER HUSBAND AT THE TIME OF THE CHILD'S CONCEPTION, OR BETWEEN CONCEPTION AND BIRTH.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY II.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 1271 A BILL TO BE ENTITLED AN ACT TO CLARIFY AUTHORITY OF THE SOCIAL SERVICES COMMISSION IN SETTING QUALIFICATIONS FOR STAFF OF RESIDENTIAL CHILD CARE AGENCIES, RESIDENTIAL MATERNITY CARE AGENCIES, AND CHILD PLACING AGENCIES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY I.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1191 A BILL TO BE ENTITLED AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY I.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
HB 1079 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO ACQUIRE ONLY NEW PASSENGER MOTOR VEHICLES THAT HAVE A FUEL ECONOMY THAT IS IN THE TOP FIFTEEN PERCENT OF THAT CLASS OF COMPARABLE AUTOMOBILES.

☒ With a favorable report as to 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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 746 A BILL TO BE ENTITLED AN ACT AMENDING THE LICENSED PROFESSIONAL COUNSELORS ACT AND AUTHORIZING THE NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS TO INCREASE CERTAIN FEES.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, April 28, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

HB 213	SPA Sick Leave Transfers. Representatives Insko, Lucas and Hurley
HB 746	Amend Professional Counselors Act/Fees. Representative Insko
HB 1079	Energy-Efficient State Motor Vehicle Fleet. Representatives Harrison, Martin, Tillis and Samuelson
HB 1112	Amend Birth Registration Requirements. Representative Goodwin
HB 1115	Designate Psoriasis Awareness Month. Representatives Gulley, Cotham and Burris-Floyd
HB 1191	Property Finders. Representative Blust
HB 1271	Clarify Social Services Commission Authority. Representative Goodwin, Glazier and Cotham

II. Discussion

III. Adjourn

HOUSE BILL 1115

Short Title:	Designate Psoriasis Awareness Month.	(Public)
Sponsors:	Representatives Gulley, Cotham, Burris-Floyd (Primary Sponsors); Dollar, Farmer-Butterfield, Fisher, Folwell, Harrell, Harrison, Lucas, Mills, Randleman, Setzer, Stam, and Whilden.	
Referred to:	Health, if favorable, State Government/State Personnel.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT DESIGNATING THE MONTH OF AUGUST AS PSORIASIS AWARENESS MONTH.

Whereas, psoriasis and psoriatic arthritis are chronic, autoimmune diseases for which there is no cure; and

Whereas, as many as 7,500,000 men, women, and children in the United States have been diagnosed with either psoriasis or psoriatic arthritis; and

Whereas, as many as 210,000 people in North Carolina alone have been diagnosed with psoriasis or psoriatic arthritis; and

Whereas, psoriasis and psoriatic arthritis are painful and disabling diseases that have a significant and adverse impact on the quality of life of an individual diagnosed with either of these diseases; and

Whereas, the National Institute of Mental Health funded a study that found that psoriasis may cause as much physical and mental disability as other major diseases, including cancer, arthritis, hypertension, heart disease, diabetes, and depression; and

Whereas, psoriasis is associated with elevated rates of depression and suicidal ideation; and

Whereas, total direct and indirect health costs of psoriasis are calculated at over $11,250,000,000 annually; and

Whereas, early diagnosis and treatment of psoriatic arthritis may help prevent irreversible joint damage; and

Whereas, treating psoriasis and psoriatic arthritis presents a challenge for patients and physicians because no one treatment works for everyone, some treatments lose effectiveness over time, many treatments are used in combination with other treatments, and all treatments may cause a unique set of side effects; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Psoriasis Awareness Month.**

The month of August of each year is designated as Psoriasis Awareness Month in North Carolina."

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

HOUSE BILL 1115:
Designate Psoriasis Awareness Month

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	April 24, 2009
Introduced by:	Reps. Gulley, Cotham, Burris-Floyd	**Prepared by:**	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: ***House Bill 1115 designates the month of August each year as Psoriasis Awareness Month.***

CURRENT LAW:

Chapter 103 of the General Statutes is titled: Sundays, Holidays and Special Days.

G.S. 103-6 through G.S. 103-11 designate the following as Special Days/Weeks or Months in North Carolina:

Citation	Designation	Date
G.S. 103-6	Arbor Week	The week in March containing March 15
G.S. 103-7	American Family Day	The first Sunday in August
G.S. 103-8	Indian Solidarity Week	The last full week in September
G.S. 103-9	Prisoner of War Day	April 9
G.S. 103-10	Pearl Harbor Remembrance Day	December 7
G.S. 103-11	Disability History and Awareness Month	October

Recent Designations Considered by this Committee:

- On 4/1/09, the House State Government/State Personnel Committee gave a favorable report to House Bill 696 to designate May as Motorcycle Awareness Month.
- On 4/1/09, the House State Government/State Personnel Committee gave a favorable report to HB 596 to designate April as Woodworking Month.
- On 4/22/09, the House State Government/State Personnel Committee gave a favorable report to HB 1014 to designate April as Organ Donation Month.

BILL ANALYSIS:

House Bill 1115 adds a new section to Chapter 103 of the General Statutes to designate the month of April as Psoriasis Awareness Month in North Carolina.

EFFECTIVE DATE:

House Bill 1115 would become effective when it becomes law.

H1115-SMSH-81(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1112
PROPOSED COMMITTEE SUBSTITUTE H1112-PCS30320-RO-21

Short Title: Amend Birth Registration Requirements. (Public)

Sponsors:

Referred to:

April 7, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING BIRTH REGISTRATION REQUIREMENTS TO ALLOW A CHILD'S PUTATIVE FATHER TO BE ENTERED ON THE BIRTH CERTIFICATE OF THE CHILD IF THE MOTHER HAS BEEN LIVING SEPARATE AND APART FROM HER HUSBAND AT THE TIME OF THE CHILD'S CONCEPTION, OR BETWEEN CONCEPTION AND BIRTH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-101 reads as rewritten:

"**§ 130A-101. Birth registration.**

(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the county in which the birth occurs within 10 days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this Article and the rules.

(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar within five days after the birth. The physician or other person in attendance shall provide the medical information required by the certificate.

(c) When a birth occurs outside a hospital or other medical facility, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth, or in the absence of such a person;

(2) Any other person in attendance at or immediately after the birth, or in the absence of such a person;

(3) The father, the mother or, in the absence or inability of the father and the mother, the person in charge of the premises where the birth occurred.

(d) When a birth occurs on a moving conveyance and the child is first moved from the conveyance in this State, the birth shall be registered in the county where the child is first removed from the conveyance, and that place shall be considered the place of birth.

(e) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless ~~paternity has been otherwise determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. The surname of the child shall be the same as that of the husband, except that upon agreement of the husband~~

~~and mother, or upon agreement of the mother and father if paternity has been otherwise determined, any surname may be chosen.~~one of the following conditions exists:

(1) Paternity has been otherwise determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. The surname of the child shall be the same as that of the husband, except that upon agreement of the husband and mother, or upon agreement of the mother and father if paternity has been otherwise determined, any surname may be chosen.

(2) If the mother was married but living separate and apart from her husband at the time of conception, or between conception and birth, the name of the putative father shall be entered on the certificate only after the child's mother, mother's husband, and putative father complete an affidavit acknowledging paternity which contains the following:

a. A sworn statement by the mother consenting to the assertion of paternity by the putative father and declaring that the putative father is the child's natural father.

b. A sworn statement by the putative father declaring that he believes he is the natural father of the child.

c. A sworn statement by the mother's husband consenting to the assertion of paternity by the putative father.

d. Information explaining in plain language the effect of signing the affidavit, including a statement of parental rights and responsibilities and an acknowledgment of the receipt of this information.

e. The social security numbers of the putative father, mother, and mother's husband.

(f) If the mother was unmarried at all times from date of conception through date of birth, the name of the father shall not be entered on the certificate unless the child's mother and father complete an affidavit acknowledging paternity which contains the following:

(1) A sworn statement by the mother consenting to the assertion of paternity by the father and declaring that the father is the child's natural ~~father;~~ father, and that the mother was unmarried at all times from the date of conception through the date of birth;

(2) A sworn statement by the father declaring that he believes he is the natural father of the child;

(3) Information explaining in plain language the effect of signing the affidavit, including a statement of parental rights and responsibilities and an acknowledgment of the receipt of this information; and

(4) The social security numbers of both parents.

The State Registrar, in consultation with the Child Support Enforcement Section of the Division of Social Services, shall develop and disseminate a form affidavit for use in compliance with this section, together with an information sheet that contains all the information required to be disclosed by subdivision (3) of this subsection.

Upon the execution of the affidavit, the declaring father shall be listed as the father on the birth certificate, subject to the declaring father's right to rescind under G.S. 110-132. The executed affidavit shall be filed with the registrar along with the birth certificate. In the event paternity is properly placed at issue, a certified copy of the affidavit shall be admissible in any action to establish paternity. The surname of the child shall be determined by the mother, except if the father's name is entered on the certificate, the mother and father shall agree upon the child's surname. If there is no agreement, the child's surname shall be the same as that of the mother.

The execution and filing of this affidavit with the registrar does not affect rights of inheritance unless the affidavit is also filed with the clerk of court in accordance with G.S. 29-19(b)(2).

(g) Each parent shall provide his or her social security number to the person responsible for preparing and filing the certificate of birth."

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

HOUSE BILL 1112:
Amend Birth Registration Requirements

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary II	**Date:**	April 27, 2009
Introduced by:	Rep. Goodwin	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	PCS to First Edition H1112-CSRO-21		Committee Counsel

SUMMARY: House Bill 1112 amends the law governing birth registration to allow a child's putative father to be entered on the birth certificate if the mother has been living separate and apart from her husband at the time of the child's conception, or between conception and birth.

CURRENT LAW:

Under current law, if a mother was married at the time of either conception or birth, or between conception and birth, the name of the husband must be entered on the birth certificate as father, unless a court has determined paternity, in which case the name of the father as determined by the court shall be entered. The child's surname must be the same as the husband's except upon agreement between the mother and husband, or mother and father if paternity was determined, any surname may be chosen.

BILL ANALYSIS:

House Bill 1112 creates a new exception to the requirement that a husband's name be entered on a birth certificate unless paternity has been determined by a court. The bill provides that if the mother is married but living separate and apart from her husband at the time of conception or between conception and birth, the name of the putative father will be entered on the certificate only after the mother, husband and putative father complete an affidavit acknowledging paternity which contains the following:

- A sworn statement by the mother consenting to and declaring that the putative father is the child's natural father.
- A sworn statement by the putative father declaring that he believes he is the natural father.
- A sworn statement by the husband consenting to the assertion of paternity by the putative father.
- Information explaining the effect of signing the affidavit, including a statement of parental rights and responsibilities and acknowledging receipt of the information.
- The social security numbers of all of the parties.

The PCS adds language to the provision relating to unmarried mothers to include in the affidavit a statement that the mother was unmarried at all times from conception through birth.

FFECTIVE DATE: This act is effective when it becomes law.

HOUSE BILL 1112

Short Title:	Amend Birth Registration Requirements.	(Public)
Sponsors:	Representative Goodwin.	
Referred to:	State Government/State Personnel, if favorable, Judiciary II.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING BIRTH REGISTRATION REQUIREMENTS TO ALLOW A CHILD'S PUTATIVE FATHER TO BE ENTERED ON THE BIRTH CERTIFICATE OF THE CHILD IF THE MOTHER HAS BEEN LIVING SEPARATE AND APART FROM HER HUSBAND AT THE TIME OF THE CHILD'S CONCEPTION, OR BETWEEN CONCEPTION AND BIRTH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130-101 reads as rewritten:

"**§ 130A-101. Birth registration.**

(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the county in which the birth occurs within 10 days after the birth and shall be registered by the registrar if it has been completed and filed in accordance with this Article and the rules.

(b) When a birth occurs in a hospital or other medical facility, the person in charge of the facility shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar within five days after the birth. The physician or other person in attendance shall provide the medical information required by the certificate.

(c) When a birth occurs outside a hospital or other medical facility, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth, or in the absence of such a person;

(2) Any other person in attendance at or immediately after the birth, or in the absence of such a person;

(3) The father, the mother or, in the absence or inability of the father and the mother, the person in charge of the premises where the birth occurred.

(d) When a birth occurs on a moving conveyance and the child is first moved from the conveyance in this State, the birth shall be registered in the county where the child is first removed from the conveyance, and that place shall be considered the place of birth.

(e) If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless ~~paternity has been otherwise determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. The surname of the child shall be the same as that of the husband, except that upon agreement of the husband and mother, or upon agreement of the mother and father if paternity has been otherwise determined, any surname may be chosen.~~one of the following conditions exists:

(1) Paternity has been otherwise determined by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered. The surname of the child shall be the same as that of the husband, except that upon agreement of the husband and mother, or upon agreement of the mother and father if paternity has been otherwise determined, any surname may be chosen.

(2) If the mother was married but living separate and apart from her husband at the time of conception, or between conception and birth, the name of the putative father shall be entered on the certificate only after the child's mother, mother's husband, and putative father complete an affidavit acknowledging paternity which contains the following:

a. A sworn statement by the mother consenting to the assertion of paternity by the putative father and declaring that the putative father is the child's natural father.

b. A sworn statement by the putative father declaring that he believes he is the natural father of the child.

c. A sworn statement by the mother's husband consenting to the assertion of paternity by the putative father.

d. Information explaining in plain language the effect of signing the affidavit, including a statement of parental rights and responsibilities and an acknowledgment of the receipt of this information.

e. The social security numbers of the putative father, mother, and mother's husband.

(f) If the mother was unmarried at all times from date of conception through date of birth, the name of the father shall not be entered on the certificate unless the child's mother and father complete an affidavit acknowledging paternity which contains the following:

(1) A sworn statement by the mother consenting to the assertion of paternity by the father and declaring that the father is the child's natural father;

(2) A sworn statement by the father declaring that he believes he is the natural father of the child;

(3) Information explaining in plain language the effect of signing the affidavit, including a statement of parental rights and responsibilities and an acknowledgment of the receipt of this information; and

(4) The social security numbers of both parents.

The State Registrar, in consultation with the Child Support Enforcement Section of the Division of Social Services, shall develop and disseminate a form affidavit for use in compliance with this section, together with an information sheet that contains all the information required to be disclosed by subdivision (3) of this subsection.

Upon the execution of the affidavit, the declaring father shall be listed as the father on the birth certificate, subject to the declaring father's right to rescind under G.S. 110-132. The executed affidavit shall be filed with the registrar along with the birth certificate. In the event paternity is properly placed at issue, a certified copy of the affidavit shall be admissible in any action to establish paternity. The surname of the child shall be determined by the mother, except if the father's name is entered on the certificate, the mother and father shall agree upon the child's surname. If there is no agreement, the child's surname shall be the same as that of the mother.

The execution and filing of this affidavit with the registrar does not affect rights of inheritance unless the affidavit is also filed with the clerk of court in accordance with G.S. 29-19(b)(2).

(g) Each parent shall provide his or her social security number to the person responsible for preparing and filing the certificate of birth."

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

HOUSE BILL 1271

Short Title:	Clarify Social Services Commission Authority.	(Public)
Sponsors:	Representatives Goodwin, Glazier, Cotham (Primary Sponsors); Dickson and Lucas.	
Referred to:	State Government/State Personnel, if favorable, Judiciary I.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AUTHORITY OF THE SOCIAL SERVICES COMMISSION IN SETTING QUALIFICATIONS FOR STAFF OF RESIDENTIAL CHILD CARE AGENCIES, RESIDENTIAL MATERNITY CARE AGENCIES, AND CHILD PLACING AGENCIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-1 reads as rewritten:

"**§ 131D-1. Licensing of maternity homes.**

(a) The Department of Health and Human Services shall inspect and license all maternity homes established in the State under rules adopted by the Social Services Commission. The Commission shall adopt rules establishing ~~educational requirements~~ qualifications for executive directors and staff employed in maternity homes.

(b) Facilities subject to the provisions of this section shall include:

(1) Institutions or homes maintained for the purpose of receiving pregnant women for care before, during, and after delivery, and

(2) Institutions or lying-in homes maintained for the purpose of receiving pregnant women for care before and after delivery, when delivery takes place in a licensed hospital."

SECTION 2. G.S. 131D-10.5 reads as rewritten:

"**§ 131D-10.5. Powers and duties of the Commission.**

In addition to other powers and duties prescribed by law, the Commission shall exercise the following powers and duties:

(1) Adopt, amend and repeal rules consistent with the laws of this State and the laws and regulations of the federal government to implement the provisions and purposes of this Article;

(2) Issue declaratory rulings as may be needed to implement the provisions and purposes of this Article;

(3) Adopt rules governing procedures to appeal Department decisions pursuant to this Article granting, denying, suspending or revoking licenses;

(4) Adopt criteria for waiver of licensing rules adopted pursuant to this Article;

(5) Adopt rules on documenting the use of physical restraint in residential child-care facilities; ~~and~~

(6) Adopt rules establishing personnel and training requirements related to the use of physical restraints and time-out for staff employed in residential child-care ~~facilities.~~facilities; and

(7) Adopt rules establishing ~~educational requirements~~ qualifications for executive directors and staff employed by child placing agencies and residential child care facilities."

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

HOUSE BILL 1271:
Clarify Social Services Commission Authority

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary I	**Date:**	April 28, 2009
Introduced by:	Reps. Goodwin, Glazier, Cotham	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***House Bill 1271 would clarify the Social Services Commission's authority to set qualifications for staff of residential child care, residential maternity care and child placing agencies.***

House Bill 1271 has a serial referral to JI.

CURRENT LAW: G.S. 131D-1 authorizes the Department of Health and Human Services (DHHS) to inspect and license all maternity homes in the State under the rules and regulations adopted by the Social Services Commission (Commission).

G.S. 131D-10.5 establishes the powers and duties of the Commission with regard to child placement and child care, which includes rule-making authority to:

- Implement the provisions and purposes of the Article controlling child placing and child care consistent with State and federal law.
- Govern appeals regarding licenses for child placement and child care.
- Document use of physical restraint in residential child-care facilities, and establish personnel and training requirements related to use of physical restraint and time out for staff employed in those facilities.

G.S. 131D-10.5 also provides the Commission the authority to issue declaratory rulings and adopt criteria for waivers of licensing rules.

BILL ANALYSIS: House Bill 1271 would clarify that the Social Services Commission would adopt rules to establish qualifications (rather than educational requirements) for executive directors and staff employed in maternity homes and employed by child placing agencies and residential child care facilities. Qualifications would include educational requirements as well as other requirements such as experience, age standards and exemptions for certain criminal convictions.

The changes proposed in House Bill 1271 would bring consistency in the licensing of child placing agencies for foster care and adoption, residential child care facilities and maternity homes, and would make the educational and experience requirements for executive directors consistent across all agencies.

EFFECTIVE DATE: This act would become effective when it becomes law.

H1271-SMSF-39(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1191*
PROPOSED COMMITTEE SUBSTITUTE H1191-PCS70385-RO-22

Short Title: Property Finders. (Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-78 reads as rewritten:

"**§ 116B-78. Agreement to locate property.**

(a) An agreement ~~by an owner,~~ covered by this section, the primary purpose of which is to locate, ~~deliver,~~ recover, or assist in the recovery of property that is presumed abandoned, is being held by a clerk of superior court, or has been transferred to the State Treasurer by a clerk of superior court, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the ~~Treasurer.~~ Treasurer or the clerk of superior court. Agreements under this section include power of attorney agreements and agreements to sell or release interest in property that is presumed abandoned. This subsection does not apply to an owner's agreement with an attorney to file a claim or special proceeding as to identified property or contest the Treasurer's denial of a ~~claim.~~ claim or a clerk's denial of a petition.

(b) An agreement ~~by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property,~~ covered by this section is enforceable only ~~if the agreement~~ if the agreement:

(1) ~~is~~ Is in ~~writing,~~ writing and clearly sets forth the nature of the property and the services to be ~~rendered,~~ rendered;

(2) ~~is~~ Is signed by the ~~owner,~~owner under oath;

(3) ~~and states~~ States the value of the property before and after the fee or other compensation has been ~~deducted.~~deducted;

(4) States that there may be other claims to the property that may reduce the share of the owner;

(5) Describes the property, which includes the type of property, the property ID, and the name of the holder;

(6) States clearly the fees and costs for services. Total fees and cost shall not exceed one thousand dollars ($1,000) or twenty percent (20%) of the value of the property recovered, whichever is less; and

(7) Discloses that the property is being held by the North Carolina Department of State Treasurer's Unclaimed Property Program or in a clerk of superior court's office, as applicable.

(c) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(d) ~~An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has made an agreement to pay compensation that is unconscionable, or the Treasurer on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorneys' fees to an owner who prevails in the action.~~ Any person who enters into an agreement covered by this section with an owner shall be allowed to receive cash property, but not tangible property or securities, on behalf of the owner but shall not be authorized to negotiate the check made payable to the owner. Tangible property shall be delivered to the owner by the Treasurer, and securities will be reregistered into the owner's name.

(e) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than as provided in subsection ~~(d)~~ (b) of this section.

(f) Any person who enters into an agreement covered by this section with an owner shall register ~~annually~~ each calendar year with the Treasurer. The information to be required under this subsection shall include the person's name, address, telephone number, state of incorporation or residence, as applicable, and the person's social security or federal identification number. A registration fee of one hundred dollars ($100.00) shall be paid to the Treasurer at the time of the filing of the registration information. Fees received under this subsection shall be credited to the General Fund.

(g) In addition to rendering an agreement void and unenforceable, a failure to comply with the provisions of this section constitutes an unfair or deceptive trade practice under G.S. 75-1.1."

SECTION 2. This act becomes effective October 1, 2009, and applies to agreements entered into on or after that date.

HOUSE BILL 1191: Property Finders

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary I	**Date:**	April 27, 2009
Introduced by:	Rep. Blust	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H1191-CSRO-22		

SUMMARY: House Bill 1191 amends the Abandoned Property law to regulate agreements to locate property.

[As introduced, this bill was identical to S1021, as introduced by Sen. Stein, which is currently in Senate Judiciary I.]

CURRENT LAW:

Under current law, an agreement entered by an owner to locate, deliver, recover, or assist in the recovery of abandoned property is enforceable only if the agreement is in writing, and clearly sets forth the nature of the property and the services to be rendered. The agreement must be signed by the owner and state the value of the property before and after deduction of a fee. An agreement is void if it was entered during the time the property is presumed abandoned and 24 months after the date the property is paid or delivered to the Treasurer.

An agreement that provides for unconscionable compensation is unenforceable against the owner. Either the owner or the Treasurer may maintain an action to reduce the compensation in such cases.

Any person who enters an agreement with an owner must register annually with the Treasurer and pay a $100 registration fee.

BILL ANALYSIS:

House Bill 1191 extends the law to cover property held by a clerk of superior court as well as property that has been transferred to the Treasurer, and includes power of attorney agreements and agreements to sell or release interest in property that is presumed abandoned. The bill provides that an agreement is enforceable only if it:

- Is in writing and clearly sets forth the nature of the property and the services to be rendered.
- Is signed by the owner under oath.
- States the value of the property before and after deduction of the fee.
- States that there may be other claims to the property that may reduce the share of the owner.
- Describes the property, including the type of property, the property ID, and the name of the holder.
- States clearly the fees and costs of services which shall not exceed the lesser of $1,000.00 or 20% of the value of the property recovered.
- Discloses that the property is being held by the Department of State Treasurer or by a clerk of superior court.

The bill removes the provision relating to the unenforceability of unconscionable fees. The bill provides that anyone entering an agreement with the owner may receive cash property, but not tangible property or securities on behalf of the owner. However, the person may not negotiate a check made payable to the owner. Tangible property and securities shall be delivered to the owner.

Finally, the bill makes failure to comply with its provisions an unfair and deceptive trade practice.

EFFECTIVE DATE: This act becomes effective October 1, 2009, and applies to agreements entered into on or after that date.

H1191-SMRO-44(CSRO-22) v2

HOUSE BILL 1191*

Short Title:	Property Finders.	(Public)
Sponsors:	Representative Blust.	
Referred to:	State Government/State Personnel, if favorable, Judiciary I.	

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-78 reads as rewritten:

"**§ 116B-78. Agreement to locate property.**

(a) An agreement ~~by an owner,~~ covered by this section, the primary purpose of which is to locate, ~~deliver,~~ recover, or assist in the recovery of property that is presumed abandoned, is being held by a clerk of superior court, or has been transferred to the State Treasurer by a clerk of superior court, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the ~~Treasurer.~~ Treasurer or the clerk of superior court. Agreements under this section include power of attorney agreements and agreements to sale or release interest in property that is presumed abandoned. This subsection does not apply to an owner's agreement with an attorney to file a claim or special proceeding as to identified property or contest the Treasurer's denial of a ~~claim.~~ claim or a clerk's denial of a petition.

(b) An agreement ~~by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property,~~ covered by this section is enforceable only ~~if the agreement~~ if it:

(1) ~~is~~ Is in ~~writing,~~ writing and clearly sets forth the nature of the property and the services to be ~~rendered,~~ rendered;

(2) ~~is~~ Is signed by the ~~owner,~~owner under oath;

(3) Describes the property, which includes the type of property, the property ID, and the name of the holder;

(3a) States that there may be other claims to the property that may reduce the share of the owner;

(4) ~~and states~~ States the value of the property before and after the fee or other compensation has been ~~deducted.~~deducted;

(5) States clearly the fees and costs for services. Total fees and cost shall not exceed one thousand dollars ($1,000) or twenty percent (20%) of the value of the property recovered, whichever is less; and

(6) Discloses that the property is being held by the North Carolina Department of State Treasurer's Unclaimed Property Program or in a clerk of superior court's office, as applicable.

(c) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying

minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(d) ~~An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has made an agreement to pay compensation that is unconscionable, or the Treasurer on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorneys' fees to an owner who prevails in the action.~~ Any person who enters into an agreement covered by this section with an owner shall be allowed to receive cash property, but not tangible property or securities, on behalf of the owner but shall not be authorized to negotiate the check made payable to the owner. Tangible property shall be delivered to the owner by the Treasurer, and securities will be reregistered into the owner's name.

(e) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than as provided in subsection ~~(d)~~ (b) of this section.

(f) Any person who enters into an agreement covered by this section with an owner shall register ~~annually~~ each calendar year with the Treasurer. The information to be required under this subsection shall include the person's name, address, telephone number, state of incorporation or residence, as applicable, and the person's social security or federal identification number. A registration fee of one hundred dollars ($100.00) shall be paid to the Treasurer at the time of the filing of the registration information. Fees received under this subsection shall be credited to the General Fund.

(g) In addition to rendering an agreement void and unenforceable, a failure to comply with the provisions of this section constitutes an unfair or deceptive trade practice under G.S. 75-1.1."

SECTION 2. This section applies to agreements entered into on or after October 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1079
Committee Substitute Favorable 4/27/09
PROPOSED COMMITTEE SUBSTITUTE H1079-PCS50608-SF-16

Short Title: Energy-Efficient State Motor Vehicle Fleet. (Public)

Sponsors:

Referred to:

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO GIVE PREFERENCE TO NEW PASSENGER MOTOR VEHICLES THAT HAVE A FUEL ECONOMY THAT IS IN THE TOP FIFTEEN PERCENT OF THAT CLASS OF COMPARABLE AUTOMOBILES FOR PASSENGER MOTOR VEHICLES PURCHASED BY THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-341(8) reads as rewritten:

"(8) General Services:

...

i. To establish and operate a central motor pool and such subsidiary related facilities as the Secretary may deem necessary, and to that end:

1. To establish and operate central facilities for the maintenance, repair, and storage of state-owned passenger motor vehicles for the use of State agencies; to utilize any available State facilities for that purpose; and to establish such subsidiary facilities as the Secretary may deem necessary.

2. To acquire passenger motor vehicles by transfer from other State agencies and by purchase. All motor vehicles transferred to or purchased by the Department shall become part of a central motor pool.

2a. Every new motor vehicle transferred to or purchased by the Department that is designed to operate on diesel fuel shall be covered by an express manufacturer's warranty that allows the use of B-20 fuel, as defined in G.S. 143-58.4. This sub-sub-subdivision does not apply if the intended use, as determined by the Department, of the new motor vehicle requires a type of vehicle for which an express manufacturer's warranty allows the use of B-20 fuel is not available.

2b. As used in this sub-sub-subdivision, "fuel economy" and "class of comparable automobiles" have the same meaning as in Part 600 of Title 40 of the Code of Federal Regulations

(July 1, 2008 Edition). As used in this sub-sub-subdivision, "passenger motor vehicle" has the same meaning as "private passenger vehicle" as defined in G.S. 20-4.01. Notwithstanding the requirements of sub-sub-subdivision 2a. of this sub-subdivision, every request for proposals for new passenger motor vehicles to be purchased by the Department shall state a preference for vehicles that have a fuel economy for the new vehicle's model year that is in the top fifteen percent (15%) of its class of comparable automobiles. The award for every new passenger motor vehicle that is purchased by the Department shall be based on the Department's evaluation of the best value for the State, taking into account fuel economy ratings and life cycle cost that reasonably consider both projected fuel costs and acquisition costs. This sub-sub-subdivision does not apply to vehicles used in law enforcement, emergency medical response, and firefighting. The Department shall report the number of new passenger motor vehicles that are purchased as required by this sub-sub-subdivision, the savings or costs for the purchase of vehicles to comply with this sub-sub-subdivision, and the quantity and cost of fuel saved for the previous fiscal year on or before October 1 of each year to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission.

~~2a.~~2c. To participate in the energy credit banking and selling program under G.S. 143-58.4. The Division of Motor Fleet Management of the Department of Administration is eligible to receive proceeds from the Alternative Fuel Revolving Fund under G.S. 143-58.5 to purchase alternative fuel, develop alternative fuel refueling infrastructure, or purchase AFVs as defined in G.S. 143-58.4.

...."

SECTION 2. The first report required under G.S. 143-34(8)i.2b. shall be due on or before October 1, 2011.

SECTION 3. This act becomes effective July 1, 2010, and applies to contracts to purchase passenger motor vehicles on or after that date.

HOUSE BILL 1079:
Energy-Efficient State Motor Vehicle Fleet

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	April 28, 2009
Introduced by:	Reps. Harrison, Martin, Tillis, Samuelson	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	PCS to Second Edition H1079-CSSF-16		Legislative Analyst

SUMMARY: SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1079 would require the Department of Administration (Department) to give preference to new passenger motor vehicles that have a fuel economy that is in the top fifteen percent of that class of comparable automobiles for passenger motor vehicles purchased by the State.***

The Second Edition of House Bill 1079 would have required that every new passenger motor vehicle that is transferred to or purchased by the Department must have a fuel economy for the new vehicle's model year that is in the top 15% of its class of comparable automobiles.

The PCS to the Second Edition would not apply to vehicles transferred to the Department; would require that every request for proposals for new passenger motor vehicles to be purchased by the Department include a preference for fuel efficiency rather than a requirement for fuel efficiency; and would require that the contract award for newly purchased passenger motor vehicles be based on the best value for the State.

CURRENT LAW: Current law does not require the Department of Administration to consider fuel economy during the acquisition of new passenger motor vehicles.

BILL ANALYSIS: The PCS for House Bill 1079 would require that every request for proposals for new passenger motor vehicles to be purchased by the Department include a preference for vehicles that have a fuel economy for the new vehicle's model year that is in the top 15% of its class of comparable automobiles.

The PCS also would require that the contract award for every new passenger motor vehicle that the Department purchases must be based on the Department's evaluation of the best value for the State, taking into account fuel economy ratings and life cycle cost that reasonably consider both projected fuel costs and acquisition costs.

The PCS would define the terms "fuel economy" and "class of comparable automobiles" by reference to the Code of Federal Regulations. The PCS would clarify that the term "passenger motor vehicle" has the same meaning as "private passenger vehicle" as defined in G.S. 20-4.01 (Division of Motor Vehicles).

The new passenger motor vehicle acquisition requirements that are proposed by this PCS would not apply to vehicles used in law enforcement, emergency medical response, and firefighting.

The PCS would require the Department of Administration to prepare and submit an annual report for the previous fiscal year beginning October 1, 2011 to the Joint Legislative Commission on Governmental Operations and the Environmental Review Commission that would include:

- The number of new passenger motor vehicles that are purchased under this act.
- The savings or costs for the purchase of vehicles to comply with this act.
- The quantity and cost of fuel saved.

EFFECTIVE DATE: The PCS for House Bill 1079 would become effective July1, 2010 and would apply to contracts to purchase passenger motor vehicles on or after that date.

Jennifer Mundt, Legislative Analyst for House Energy & Energy Efficiency, substantially contributed to this summary.

H1079-SMSF-40(e2) v4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 746*
PROPOSED COMMITTEE SUBSTITUTE H746-PCS10892-SFf-15

Short Title: Amend Professional Counselors Act/Fees. (Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE LICENSED PROFESSIONAL COUNSELORS ACT AND AUTHORIZING THE NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS TO INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-330 reads as rewritten:

"**§ 90-330. Definitions; practice of ~~marriage and family therapy.~~counseling.**

(a) Definitions. – As used in this Article certain terms are defined as follows:

(1) Repealed by Session Laws 1993, c. 514, s. 1.

(1a) The "Board" means the Board of Licensed Professional Counselors.

(2) A "licensed professional counselor" is a person engaged in the practice of counseling who holds a license as a licensed professional counselor issued under the provisions of this Article.

(2a) A "licensed professional counselor associate" is a person engaged in the supervised practice of counseling who holds a license as a licensed professional counselor associate issued under the provisions of this Article.

(2b) A "licensed professional counselor supervisor" is a person engaged in the practice of counseling who holds a license as a licensed professional counselor and is approved by the Board to provide clinical supervision under the provisions of this Article.

(3) The "practice of counseling" means holding oneself out to the public as a professional counselor offering counseling services that include, but are not limited to, the following:

a. Counseling. – Assisting individuals, groups, and families through the counseling relationship by evaluating and treating mental disorders and other conditions through the use of a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define goals, and to plan action reflecting the client's interests, abilities, aptitudes, and mental health needs as these are related to personal-social-emotional concerns, educational progress, and occupations and careers.

b. Appraisal Activities. – Administering and interpreting tests for assessment of personal characteristics.
c. Consulting. – Interpreting scientific data and providing guidance and personnel services to individuals, groups, or organizations.
d. Referral Activities. – Identifying problems requiring referral to other specialists.
e. Research Activities. – Designing, conducting, and interpreting research with human subjects.

The "practice of counseling" does not include the facilitation of communication, understanding, reconciliation, and settlement of conflicts by mediators at community mediation centers authorized by G.S. 7A-38.5.

(4) A "supervisor" means any licensed professional counselor supervisor or, when one is inaccessible, a licensed professional counselor or an ~~equivalently credentialed mental health professional, as determined by the Board, with a minimum of five years of counseling experience~~equivalently and actively licensed mental health professional, as determined by the Board, who meets the qualifications established by the Board.

(b) Repealed by Session Laws 1993, c. 514, s. 1.

(c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No person licensed as a licensed professional counselor or licensed professional counselor associate under the provisions of this Article shall be allowed to hold himself or herself out to the public as a licensed marriage and family therapist, licensed practicing psychologist, psychological associate, or licensed clinical social worker unless specifically authorized by other provisions of law."

SECTION 2. G.S. 90-331 reads as rewritten:

"**§ 90-331. Prohibitions.**

It shall be unlawful for any person who is not licensed under this Article to engage in the practice of counseling, use the title ~~"licensed professional counselor",~~"Licensed Professional Counselor Associate," "Licensed Professional Counselor," or "Licensed Professional Counselor Supervisor," use the letters "LPCA," ~~"LPC",~~ "LPC," or "LPCS," use any facsimile or combination of these words or letters, abbreviations, or insignia, or indicate or imply orally, in writing, or in any other way that the person is a licensed professional counselor."

SECTION 3. G.S. 90-332.1 reads as rewritten:

"**§ 90-332.1. Exemptions from licensure.**

(a) It is not the intent of this Article to regulate members of other regulated professions who do counseling in the normal course of the practice of their profession. Accordingly, this Article does not apply to:

(1) Lawyers licensed under Chapter 84, doctors licensed under Chapter 90, and any other person registered, certified, or licensed by the State to practice any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which the person is registered, certified, or licensed.
(2) Any school counselor certified by the State Board of Education while counseling within the scope of employment by a board of education or private school.
(3) Any student intern or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher learning or training institution, if the intern or trainee is a designated "counselor intern" and the activities and services constitute a part of the supervised course of study.
~~(4) Any person counseling as a supervised counselor in a supervised professional practice under G.S. 90-336(b)(2).~~

(4a) Any person counseling within the scope of employment ~~at a local community college.~~ at: (i) a local community college as defined in G.S. 115D-2(2); (ii) a public higher education institution as defined in G.S. 116-2(4); or (iii) a private higher education institution as defined in G.S. 116-22(1).

~~(4b) Any person counseling within the scope of employment at a private higher education institution as defined in G.S. 116-22(1).~~

(5) Any ordained minister or other member of the clergy while acting in a ministerial capacity who does not charge a fee for the service, or any person invited by a religious organization to conduct, lead, or provide counseling to its members when the service is not performed for more than 30 days a year.

(6) Any nonresident temporarily employed in this State to render counseling services for not more than 30 days in a year, if the person holds a license or certificate required for counselors in another state.

(7) Any person employed by State, federal, county, or municipal government while counseling within the scope of employment.

~~(8) Any person performing counseling solely as an employee of an area facility, as defined in G.S. 122C-3(14)a., if both of the following apply:~~

~~a. The services are provided by (i) a qualified professional as defined in G.S. 122C-3(31) and subject to the rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, or (ii) an employee supervised by a qualified professional as defined in G.S. 122C-3(31);~~

~~b. The area facility has obtained written verification from the following boards that the employee has not had his or her license, registration, or certification revoked, rescinded, or suspended: the North Carolina Board of Licensed Professional Counselors, the North Carolina State Board of Examiners of Practicing Psychologists, the North Carolina Social Work Certification and Licensure Board, and the North Carolina Marriage and Family Therapy Licensure Board;~~

~~(9) Any person performing counseling as an employee of a hospital or other health care facility licensed under Chapter 131D, 131E, or 122C who is performing this counseling under the supervision of a qualified professional as defined in G.S. 122C-3(31); and~~

~~(10) Any employee assistance professional providing core specific employee assistance program (EAP) activities, as defined by the Employee Assistance Professionals Association Standards for Employee Assistance Programs Part II: Professional Guidelines (1988).~~

(b) Persons who claim to be exempt under subsection (a) of this section are prohibited from advertising or offering themselves as "licensed professional counselors".

(c) Persons licensed under this Article are exempt from rules pertaining to counseling adopted by other occupational licensing boards.

(d) Nothing in this Article shall prevent a person from performing substance abuse counseling or substance abuse prevention consulting as defined in Article 5C of this Chapter."

SECTION 4. G.S. 90-333 reads as rewritten:

"**§ 90-333. North Carolina Board of Licensed Professional Counselors; appointments; terms; composition.**

(a) For the purpose of carrying out the provisions of this Article, there is hereby created the North Carolina Board of Licensed Professional Counselors which shall consist of seven members appointed by the Governor in the manner hereinafter prescribed. Any State or nationally recognized professional association representing professional counselors may submit

recommendations to the Governor for Board membership. The Governor may remove any member of the Board for neglect of duty or malfeasance or conviction of a felony or other crime of moral turpitude, but for no other reason.

(b) At least five members of the Board shall be licensed professional counselors except that initial appointees shall be persons who meet the educational and experience requirements for licensure as licensed professional counselors under the provisions of this Article; and two members shall be public-at-large members appointed from the general public. Composition of the Board as to the race and sex of its members shall reflect the ~~composition of the~~ population of the State and each member shall reside in a different congressional district.

(c) At all times the Board shall include at least one counselor primarily engaged in counselor education, at least one counselor primarily engaged in the public sector, at least one counselor primarily engaged in the private sector, and two licensed professional counselors at large.

(d) All members of the Board shall be residents of the State of North Carolina, and, with the exception of the public-at-large members, shall be licensed by the Board under the provisions of this Article. Professional members of the Board must be actively engaged in the practice of counseling or in the education and training of students in counseling, and have been for at least three years prior to their appointment to the Board. The engagement in this activity during the two years preceding the appointment shall have occurred primarily in this State.

(e) The term of office of each member of the Board shall be three years; provided, however, that of the members first appointed, three shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. No member shall serve more than two consecutive three-year terms.

(f) Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term. Appointees to the Board shall continue to serve until a successor is appointed and qualified.

(g) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Article, at the rates prescribed in G.S. 93B-5.

(h) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board."

SECTION 5. G.S. 90-334 reads as rewritten:

"**§ 90-334. Functions and duties of the Board.**

(a) The Board shall administer and enforce the provisions of this Article.

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for licenses under this Article, and shall issue a license or renewal of license to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all licenses issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Article from ~~the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year.~~fees paid to the Board pursuant to this section. No State appropriations shall be subject to the administration of the Board.

(f) The Board shall establish and receive fees not to exceed ~~one~~ three hundred dollars ~~($100.00)~~($300.00) for initial or renewal ~~application, not to exceed one hundred dollars~~

~~($100.00) for examination,~~application and not to exceed ~~twenty-five~~one hundred fifty dollars ~~($25.00)~~($150.00) for late renewal, maintain Board accounts of all receipts, and make expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Article.

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for licensure and license renewal, including but not limited to the power to adopt or use examination materials and accreditation standards of any recognized counselor accrediting agency and the power to establish reasonable standards for continuing counselor education.

(h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to adopt, amend, or repeal rules to carry out the purposes of this Article, including but not limited to the power to adopt ethical and disciplinary standards.

(i) The Board shall establish the criteria for determining the qualifications constituting "supervised professional practice".

(j) The Board may ~~examine counselor applicants,~~ examine, approve, issue, deny, revoke, suspend, and renew the licenses of counselor applicants and licensees under this Article, and conduct hearings in connection with these actions.

(k) The Board shall investigate, subpoena individuals and records, and take necessary appropriate action to properly discipline persons licensed under this Article and to enforce this Article."

SECTION 6. G.S. 90-336 reads as rewritten:

"**§ 90-336. Title and qualifications for licensure.**

(a) Each person desiring to be a licensed professional counselor associate, licensed professional ~~counselor~~ counselor, or licensed professional counselor supervisor shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee.

(b) The Board shall issue a license as ~~"licensed professional counselor"~~a "licensed professional counselor associate" to an applicant who meets all of the following criteria:

(1) ~~Has earned one of the following:~~

~~a. A masters degree in counseling from a regionally accredited institution of higher education, which includes a minimum of 48 semester hours.~~

~~b. A graduate degree in a related field supplemented with courses that the Board determines to be substantially equivalent.~~

Has earned a minimum of 48 semester hours or 72 quarter credit hours of graduate training as defined by the Board, including a master's degree in counseling or a related field from a regionally accredited institution of higher education if the applicant was enrolled in the master's program before July 1, 2009; a minimum of 54 semester hours or 81 quarter credit hours of graduate training as defined by the Board, including a master's degree in counseling or a related field from a regionally accredited institution of higher education if the applicant was enrolled in the master's program before July 1, 2013, but after June 30, 2009; or a minimum of 60 semester hours or 90 quarter credit hours of graduate training as defined by the Board, including a master's degree in counseling or a related field from a regionally accredited institution of higher education if the applicant was enrolled in the master's program after June 30, 2013.

~~(2) Has had no less than two years of masters or post-masters counseling experience, or of both, in a professional setting, including a minimum of 2,000 hours of supervised professional practice as defined by the Board.~~

(3) Has passed an examination ~~as~~ in accordance with rules adopted by the Board.

(c) The Board shall issue a license as a "licensed professional counselor" to an applicant who meets all of the following criteria:

(1) Has met all of the requirements under subsection (b) of this section.

(2) Has completed a minimum of 3,000 hours of supervised professional practice as determined by the Board.

(d) A licensed professional counselor may apply to the Board for recognition as a "licensed professional counselor supervisor" and receive the credential "licensed professional counselor supervisor" upon meeting all of the following criteria:

(1) Has met all of the requirements under subsection (c) of this section.

(2) Has one of the following:

a. At least five years of full-time licensed professional counseling experience, including a minimum of 2,500 hours of direct client contact;

b. At least eight years of part-time licensed professional counseling experience, including a minimum of 2,500 hours of direct client contact; or

c. A combination of full-time and part-time professional counseling experience, including a minimum of 2,500 hours of direct client contact as determined by the Board.

(3) Has completed minimum education requirements in clinical supervision as approved by the Board.

(4) Has an active license in good standing as a licensed professional counselor approved by the Board."

SECTION 7. G.S. 90-338 reads as rewritten:

"**§ 90-338. Exemptions.**

Applicants holding certificates of registration as Registered Practicing Counselors and in good standing with the Board shall be issued licenses as licensed professional counselors without meeting the requirements of ~~G.S. 90-336(b).~~G.S. 90-336(c). The following applicants shall be exempt from the academic qualifications required by this Article for licensed professional counselor associates or licensed professional counselors and shall be licensed upon passing the Board examination and meeting the experience requirements:

(1) An applicant who was engaged in the practice of counseling before July 1, 1993, and who ~~applies~~ applied to the Board prior to January 1, 1996.

(2) An applicant who holds a masters degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, provided the applicant was enrolled in the masters program prior to July 1, 1994."

SECTION 8. G.S. 90-340 reads as rewritten:

"**§ 90-340. Protection of the public.**

(a) The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, ~~refuse to grant or to renew, may suspend, or may revoke the license~~deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation of any person licensed under this Article on one or more of the following grounds:

(1) ~~Conviction of a misdemeanor under this Article.~~Has been convicted of a felony or entered a plea of guilty or nolo contendere to any felony charge under the laws of the United States or of any state of the United States.

(2) ~~Conviction of a felony under the laws of the United States or of any state of the United States.~~Has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor involving moral turpitude, misrepresentation, or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice professional counseling, or a misdemeanor charge reflecting the inability to practice professional counseling with due regard to the health and safety of clients or patients.

(3) ~~Gross unprofessional conduct, dishonest practice or incompetence in the practice of counseling.~~Has engaged in fraud or deceit in securing or attempting to secure or renew a license under this Article or has willfully concealed from the Board material information in connection with application for a license or renewal of a license under this Article.

(4) ~~Procuring or attempting to procure a license by fraud, deceit, or misrepresentation.~~Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of professional counseling, the offer of professional counseling services, the filing of Medicare, Medicaid, or other claims to any third-party payor, or in any manner otherwise relevant to fitness for the practice of professional counseling.

(5) ~~Any fraudulent or dishonest conduct in counseling.~~Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, license renewal, certification as a health services provider, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, or qualifications or fitness for the practice of professional counseling to the public, any individual, the Board, or any other organization.

(6) ~~Inability of the person to perform the functions for which a license has been issued due to impairment of mental or physical faculties.~~Has had a license or certification for the practice of professional counseling in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction for conduct which would subject him or her to discipline under this Article.

(7) ~~Violations of any of the provisions of this Article or rules of the Board.~~Has violated any provision of this Article or any rules adopted by the Board.

(8) ~~Violations of the American Counseling Association Ethical Standards adopted by the Board.~~Has aided or abetted the unlawful practice of professional counseling by any person not licensed by the Board.

(9) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection or in the current code of ethics of the American Counseling Association. However, if any provision of the code of ethics is inconsistent and in conflict with the provisions of this Article, the provisions of this Article shall control.

(10) Has practiced professional counseling in such a manner as to endanger the welfare of clients.

(11) Has demonstrated an inability to practice professional counseling with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition.

(12) Has practiced professional counseling outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience.

(13) Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal advantage or gratification of the licensed professional counselor associate, licensed professional counselor, or a third party.

(14) Has harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee.

(15) Has failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional associations, hospitals, or other health care organizations or educational institutions, when those organizations or entities have jurisdiction.

(16) Has refused to appear before the Board after having been ordered to do so in writing by the chair.

(17) Has a finding listed on the Division of Health Service Regulation of the Department of Health and Human Services Health Care Personnel Registry.

(b) The Board may, in lieu of denial, suspension, or revocation, take any of the following disciplinary actions:

(1) Issue a formal reprimand or formally censure the applicant or licensee.

(2) Place the applicant or licensee on probation with the appropriate conditions on the continued practice of professional counseling deemed advisable by the Board.

(3) Require examination, remediation, or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee.

(4) Require supervision of the professional counseling services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee.

(5) Limit or circumscribe the practice of professional counseling provided by the applicant or licensee with respect to the extent, nature, or location of the professional counseling services provided, as deemed advisable by the Board.

(6) Discipline and impose any appropriate combination of the types of disciplinary action listed in this section.

In addition, the Board may impose conditions of probation or restrictions on continued practice of professional counseling at the conclusion of a period of suspension or as a requirement for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to discipline, supervision, probation, remediation, rehabilitation, or practice limitation of a licensee or applicant for a license.

(c) The Board may assess costs of disciplinary action against an applicant or licensee found to be in violation of this Article.

(d) When considering the issue of whether an applicant or licensee is physically or mentally capable of practicing professional counseling with reasonable skill and safety with patients or clients, upon a showing of probable cause to the Board that the applicant or licensee is not capable of practicing professional counseling with reasonable skill and safety with patients or clients, the Board may petition a court of competent jurisdiction to order the applicant or licensee in question to submit to a psychological evaluation by a psychologist to

determine psychological status or a physical evaluation by a physician to determine physical condition, or both. The psychologist or physician shall be designated by the court. The expenses of the evaluations shall be borne by the Board. Where the applicant or licensee raises the issue of mental or physical competence or appeals a decision regarding mental or physical competence, the applicant or licensee shall be permitted to obtain an evaluation at the applicant or licensee's expense. If the Board suspects the objectivity or adequacy of the evaluation, the Board may compel an evaluation by its designated practitioners at its own expense.

(e) Except as provided otherwise in this Article, the procedure for revocation, suspension, denial, limitations of the license, or other disciplinary, remedial, or rehabilitative actions shall be in accordance with the provisions of Chapter 150B of the General Statutes. The Board is required to provide the opportunity for a hearing under Chapter 150B to any applicant whose license or health services provider certification is denied or to whom licensure or health services provider certification is offered subject to any restrictions, probation, disciplinary action, remediation, or other conditions or limitations, or to any licensee before revoking, suspending, or restricting a license or health services provider certificate or imposing any other disciplinary action or remediation. If the applicant or licensee waives the opportunity for a hearing, the Board's denial, revocation, suspension, or other proposed action becomes final without a hearing having been conducted. Notwithstanding the provisions of this subsection, no applicant or licensee is entitled to a hearing for failure to pass an examination. In any proceeding before the Board, in any record of any hearing before the Board, in any complaint or notice of charges against any licensee or applicant for licensure, and in any decision rendered by the Board, the Board may withhold from public disclosure the identity of any clients who have not consented to the public disclosure of services provided by the licensee or applicant. The Board may close a hearing to the public and receive in closed session evidence involving or concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of the treatment or services as may be necessary for the protection and rights of the client of the accused applicant or licensee and the full presentation of relevant evidence.

(f) All records, papers, and other documents containing information collected and compiled by or on behalf of the Board as a result of investigations, inquiries, or interviews conducted in connection with licensing or disciplinary matters shall not be considered public records within the meaning of Chapter 132 of the General Statutes. However, any notice or statement of charges against any licensee or applicant, or any notice to any licensee or applicant of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding shall be a public record within the meaning of Chapter 132 of the General Statutes, though the record may contain information collected and compiled as a result of the investigation, inquiry, or hearing. Any identifying information concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of the treatment or services may be deleted. If any record, paper, or other document containing information collected and compiled by or on behalf of the Board, as provided in this section, is received and admitted in evidence in any hearing before the Board, it shall be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of treatment or services.

(g) A person whose license has been denied or revoked may reapply to the Board for licensure after one calendar year from the date of the denial or revocation.

(h) A licensee may voluntarily relinquish his or her license at any time. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is relinquished under this subsection and, upon proof of any violation of this Article by the person, the Board may take disciplinary action as authorized by this section.

(i) The Board may adopt rules deemed necessary to interpret and implement this section."

SECTION 9. G.S. 90-344 is repealed.

SECTION 10. Article 24 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"**§ 90-345. Criminal history record checks of applicants for licensure as professional counselors.**

(a) Definitions. – The following definitions shall apply in this section:

(1) Applicant. – A person applying for licensure as a licensed professional counselor associate pursuant to G.S. 90-336(b) or licensed professional counselor pursuant to G.S. 90-336(c).

(2) Criminal history. – A history of conviction of a State or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice professional counseling. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with G.S. 114-19.26. The Board shall keep all information obtained pursuant to this section

confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant or licensee's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant or licensee's criminal history disqualifies the applicant or licensee for licensure, the Board may deny licensure or reinstatement of the license of the applicant or revoke the license of the licensee. The Board may disclose to the applicant or licensee information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant or licensee. The applicant or licensee shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure or reinstatement of a license to an applicant or revoking a licensee's license based on information provided in the applicant or licensee's criminal history record check."

SECTION 11. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.26. Criminal record checks of applicants for licensure as professional counselors.**

The Department of Justice may provide to the North Carolina Board of Licensed Professional Counselors from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 24 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 12. Licensed professional counselors who are approved by the North Carolina Board of Licensed Professional Counselors as qualified clinical supervisors before

July 1, 2012, shall have until July 1, 2014, to meet the licensed professional counselor supervisor requirements of G.S. 90-336(d), as enacted in Section 6 of this act.

SECTION 13. This act is effective when it becomes law.

HOUSE BILL 746:
Amend Professional Counselors Act/Fees

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Finance	**Date:**	April 28, 2009
Introduced by:	Rep. Insko	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	PCS to First Edition H746-CSSFf-15		

SUMMARY: ***The Proposed Committee Substitute (PCS) to House Bill 746 would amend the Licensed Professional Counselors Act and authorize the North Carolina Board of Licensed Professional Counselors to increase certain fees.***

The PCS would amend the definition of "counseling" on page 1 and make other technical changes.

The PCS to House Bill 746 has a serial referral to Finance.

[As introduced, this bill was identical to S956, as introduced by Sen. Nesbitt, which is currently in Senate Ref to Health Care. If fav, re-ref to Finance.]

CURRENT LAW: Article 24 of Chapter 90 of the North Carolina General Statutes is the Licensed Professional Counselors Act. This Act states that it is the public policy of North Carolina to regulate the activities of persons who provide counseling services to the public to insure protection of the public health, safety, and welfare.

BILL ANALYSIS:

Section 1 would amend all of the following definitions in G.S. 90-330:

- the catch line of G.S. 90-330 to read *Definitions; practice of counseling*
- the term "counseling" to apply to offering assistance through the counseling relationship by evaluating and treating mental disorders and other conditions; and
- the term "supervisor" to include a licensed professional counselor supervisor (LPCS) and to provide that when a LPCS in unavailable that "supervisor" applies to a licensed professional counselor (LPC) or an equivalently and actively licensed mental health professional as determined by the NC Board of Licensed Professional Counselors (Board).

Would add definitions for the following terms:

- "licensed professional counselor associate"; and
- "licensed professional counselor supervisor".

Would provide that a person who is a LPC or a licensed professional counselor associate (LPCA) under the provisions of the Licensed Professional Counselors Act would not be permitted to identify themselves as a licensed marriage and family therapist, licensed practicing psychologist, psychological associate, or licensed clinical social worker unless specifically authorized by other provisions of law.

Section 2 would make it unlawful for anyone who is not licensed under the Licensed Professional Counselors Act to engage in the practice of counseling or to use in any way the titles and acronyms Licensed Professional Counselor Associate, Licensed Professional Counselor, Licensed Professional

Counselor Supervisor, LPC, LPCA, or LPCS to indicate or imply that the person is a licensed professional counselor.

Section 3 would amend the section of the Licensed Professional Counselors Act pertaining to exemptions from licensure by:

- Clarifying that any person counseling within the scope of employment at a private institution of higher education in addition to a public institution of higher education or a community college would be exempt; and
- Removing from the list of exemptions any person (i) counseling as a supervised counselor in a supervised professional practice for a specified period of time, (ii) performing counseling solely as an employee of an area facility that is operated by or under contract with mental health, developmental disabilities, and substance abuse authority if certain conditions apply, (iii) performing counseling as an employee of a licensed hospital or other health care facility who is performing this counseling under the supervision of a qualified professional, and (iv) any employee assistance professional providing core specific employee assistance program activities.

Section 4 would clarify that (i) any State or nationally recognized professional association representing professional counselors may make recommendations to the Governor for membership on the North Carolina Board of Licensed Professional Counselors (Board), and (ii) appointees to the Board would continue to serve until a successor is appointed and qualified.

Section 5 would delete the requirement that Board expenditures may not exceed revenues during any fiscal year and would raise fees collected by the Board from "not to exceed $100" to "not to exceed $300" for initial or renewal applications, and from "not to exceed $25" to "not to exceed $150" for late renewals.

Section 6 would amend G.S. 90-336 by adding the qualifications for licensure for licensed professional counselor associate and licensed professional counselor supervisor and modifying licensure and qualifications for licensed professional counselor in terms of education requirements, exam requirements, hours of supervised professional practice, and hours of professional experience.

Section 7 provides for exemptions for applicants who are Registered Practicing Counselors and in good standing with the Board, and exemptions from the new academic qualifications for licensed professional counselor associates or licensed professional counselors for certain individuals who meet specified experience requirements.

Section 8 would rewrite G.S. 90-340 to do all of the following:

Make substantial changes to the Board's authority to deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation of any person licensed under this Act, and would provide detailed acts or omissions that would constitute grounds for the board to take action against a person licensed under this Act such as:

- Being convicted of a felony or entering a plea of guilty or nolo contender to any felony charge under federal law or any state law;
- Being convicted of or entering a plea of guilty or nolo contender to any misdemeanor involving moral turpitude, misrepresentation, or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice professional counseling;
- Having engaged in fraud or deceit in securing or attempting to secure or renew a license;
- Having practiced professional counseling in such a manner as to endanger the welfare of clients;

- Having harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee.
- Refusing to appear before the Board after having been ordered to do so in writing by the chair; and
- Having violated any provision of this Act or any rules adopted by the Board.

Provide additional disciplinary action that the Board may take in lieu of denial, suspension, or revocation including issuing a formal reprimand, placing an applicant on probation, and requiring supervision of the professional counseling services provided by the applicant or licensee;

Authorize the Board to assess the costs of disciplinary action against an applicant or licensee and to petition a court of competent jurisdiction to order an applicant or licensee whose physical or mental competence is in question to submit to a psychological or physical evaluation or both;

Require the Board to provide the opportunity for a hearing under specified circumstances;

Provide guidelines regarding a hearing;

Provide that information collected and compiled by or on behalf of the Board, as a result of investigations, inquiries, or interviews conducted in connection with licensing or disciplinary matters shall not be considered public records. However, any notice or statement of charges against any applicant or licensee or any notice to a licensee or applicant of a hearing in any proceeding or any decision made in connection with a hearing in any proceeding is a public record;

Allow a person whose license has been denied or revoked to reapply to the Board for licensure after one calendar year from the date of the denial or revocation;

Allow a licensee to voluntarily relinquish his or her license at any time; and

Authorizes the Board to adopt rules deemed necessary to interpret and implement this section.

Section 9 would repeal the section of the Licensed Professional Counselors Act regarding third-party reimbursements.

Section 10 would set out the definitions and procedure providing for criminal history record checks for applicants for licensure as professional counselors. The Board would have limited immunity from civil liability provided the Board acted in good faith and in compliance with this section.

Section 11 would authorize the Department of Justice to provide the criminal history of any applicant for licensure or reinstatement of a license under the Licensed Professional Counselors Act.

Section 12 would allow licensed professional counselors who are approved by the Board as qualified clinical supervisors before July 1, 2012 to have until July 1, 2014 to meet the new licensed professional counselor supervisor requirements.

EFFECTIVE DATE: The act would become effective when it becomes law.

H746-SMSF-36(CSSFf-15) v4

HOUSE BILL 746*

Short Title:	Amend Professional Counselors Act/Fees.	(Public)
Sponsors:	Representatives Insko; and M. Alexander.	
Referred to:	State Government/State Personnel, if favorable, Finance.	

March 24, 2009

A BILL TO BE ENTITLED

AN ACT AMENDING THE LICENSED PROFESSIONAL COUNSELORS ACT AND AUTHORIZING THE NORTH CAROLINA BOARD OF LICENSED PROFESSIONAL COUNSELORS TO INCREASE CERTAIN FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-330 reads as rewritten:

"**§ 90-330. Definitions; practice of ~~marriage and family therapy.~~counseling.**

(a) Definitions. – As used in this Article certain terms are defined as follows:

(1) Repealed by Session Laws 1993, c. 514, s. 1.

(1a) The "Board" means the Board of Licensed Professional Counselors.

(2) A "licensed professional counselor" is a person engaged in the practice of counseling who holds a license as a licensed professional counselor issued under the provisions of this Article.

(2a) A "licensed professional counselor associate" is a person engaged in the supervised practice of counseling who holds a license as a licensed professional counselor associate issued under the provisions of this Article.

(2b) A "licensed professional counselor supervisor" is a person engaged in the practice of counseling who holds a license as a licensed professional counselor and is approved by the Board to provide clinical supervision under the provisions of this Article.

(3) The "practice of counseling" means holding oneself out to the public as a professional counselor offering counseling services that include, but are not limited to, the following:

a. Counseling. – Assisting individuals, groups, and families through the counseling relationship by evaluating, diagnosing, and treating mental disorders and other conditions through the use of a combination of clinical mental health and human development principles, methods, diagnostic procedures, treatment plans, and other psychotherapeutic techniques, to develop an understanding of personal problems, to define goals, and to plan action reflecting the client's interests, abilities, aptitudes, and mental health needs as these are related to personal-social-emotional concerns, educational progress, and occupations and careers.

b. Appraisal Activities. – Administering and interpreting tests for ~~assessment of personal characteristics.~~assessment.

c. Consulting. – Interpreting scientific data and providing guidance and personnel services to individuals, groups, or organizations.

d. Referral Activities. – Identifying problems requiring referral to other specialists.

e. Research Activities. – Designing, conducting, and interpreting research with human subjects.

The "practice of counseling" does not include the facilitation of communication, understanding, reconciliation, and settlement of conflicts by mediators at community mediation centers authorized by G.S. 7A-38.5.

(4) A "supervisor" means any licensed professional counselor supervisor or, when one is inaccessible, a licensed professional counselor or an ~~equivalently credentialed mental health professional, as determined by the Board, with a minimum of five years of counseling experience~~equivalently and actively licensed mental health professional, as determined by the Board, who meets the qualifications established by the Board.

(b) Repealed by Session Laws 1993, c. 514, s. 1.

(c) Practice of Marriage and Family Therapy, Psychology, or Social Work. – No person licensed as a licensed professional counselor or licensed professional counselor associate under the provisions of this Article shall be allowed to hold himself or herself out to the public as a ~~licensed~~ marriage and family therapist, ~~licensed practicing~~ psychologist, psychological associate, or ~~licensed~~ clinical social worker unless specifically authorized by other provisions of law."

SECTION 2. G.S. 90-331 reads as rewritten:

"**§ 90-331. ~~Prohibitions.~~Unlawful use of title.**

It shall be unlawful for any person who is not licensed under this Article to engage in the practice of counseling, use the title ~~"licensed professional counselor",~~"Licensed Professional Counselor Associate," "Licensed Professional Counselor," or "Licensed Professional Counselor Supervisor," use the letters "LPCA," "LPC", or "LPCS," use any facsimile or combination of these words or letters, abbreviations, or insignia, or indicate or imply orally, in writing, or in any other way that the person is a licensed professional counselor."

SECTION 3. G.S. 90-332.1 reads as rewritten:

"**§ 90-332.1. Exemptions from licensure.**

(a) It is not the intent of this Article to regulate members of other regulated professions who do counseling in the normal course of the practice of their profession. Accordingly, this Article does not apply to:

(1) Lawyers licensed under Chapter 84, doctors licensed under Chapter 90, and any other person registered, certified, or licensed by the State to practice any other occupation or profession while rendering counseling services in the performance of the occupation or profession for which the person is registered, certified, or licensed.

(2) Any school counselor certified by the State Board of Education while counseling within the scope of employment by a board of education or private school.

(3) Any student intern or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher learning or training institution, if the intern or trainee is a designated "counselor intern" and the activities and services constitute a part of the supervised course of study.

~~(4) Any person counseling as a supervised counselor in a supervised professional practice under G.S. 90-336(b)(2).~~

(4a) Any person counseling within the scope of employment ~~at a local community college.~~ at: (i) a local community college as defined in G.S. 115D-2(2); (ii) a public higher education institution as defined in

G.S. 116-2(4); or (iii) a private higher education institution as defined in G.S. 116-22(1).

~~(4b) Any person counseling within the scope of employment at a private higher education institution as defined in G.S. 116-22(1).~~

(5) Any ordained minister or other member of the clergy while acting in a ministerial capacity who does not charge a fee for the service, or any person invited by a religious organization to conduct, lead, or provide counseling to its members when the service is not performed for more than 30 days a year.

(6) Any nonresident temporarily employed in this State to render counseling services for not more than 30 days in a year, if the person holds a license or certificate required for counselors in another state.

(7) Any person employed by State, federal, county, or municipal government while counseling within the scope of employment.

~~(8) Any person performing counseling solely as an employee of an area facility, as defined in G.S. 122C-3(14)a., if both of the following apply:~~

~~a. The services are provided by (i) a qualified professional as defined in G.S. 122C-3(31) and subject to the rules adopted by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, or (ii) an employee supervised by a qualified professional as defined in G.S. 122C-3(31);~~

~~b. The area facility has obtained written verification from the following boards that the employee has not had his or her license, registration, or certification revoked, rescinded, or suspended: the North Carolina Board of Licensed Professional Counselors, the North Carolina State Board of Examiners of Practicing Psychologists, the North Carolina Social Work Certification and Licensure Board, and the North Carolina Marriage and Family Therapy Licensure Board;~~

~~(9) Any person performing counseling as an employee of a hospital or other health care facility licensed under Chapter 131D, 131E, or 122C who is performing this counseling under the supervision of a qualified professional as defined in G.S. 122C-3(31); and~~

~~(10) Any employee assistance professional providing core specific employee assistance program (EAP) activities, as defined by the Employee Assistance Professionals Association Standards for Employee Assistance Programs Part II: Professional Guidelines (1988).~~

(b) Persons who claim to be exempt under subsection (a) of this section are prohibited from advertising or offering themselves as "licensed professional counselors".

(c) Persons licensed under this Article are exempt from rules pertaining to counseling adopted by other occupational licensing boards.

(d) Nothing in this Article shall prevent a person from performing substance abuse counseling or substance abuse prevention consulting as defined in Article 5C of this Chapter."

SECTION 4. G.S. 90-333 reads as rewritten:

"**§ 90-333. North Carolina Board of Licensed Professional Counselors; appointments; terms; composition.**

(a) For the purpose of carrying out the provisions of this Article, there is hereby created the North Carolina Board of Licensed Professional Counselors which shall consist of seven members appointed by the Governor in the manner hereinafter prescribed. Any State or nationally recognized professional association representing professional counselors may submit recommendations to the Governor for Board membership. The Governor may remove any member of the Board for neglect of duty or malfeasance or conviction of a felony or other crime of moral turpitude, but for no other reason.

(b) At least five members of the Board shall be licensed professional counselors except that initial appointees shall be persons who meet the educational and experience requirements for licensure as licensed professional counselors under the provisions of this Article; and two members shall be public-at-large members appointed from the general public. Composition of the Board as to the race and sex of its members shall reflect the ~~composition of the~~ population of the State and each member shall reside in a different congressional district.

(c) At all times the Board shall include at least one counselor primarily engaged in counselor education, at least one counselor primarily engaged in the public sector, at least one counselor primarily engaged in the private sector, and two licensed professional counselors at large.

(d) All members of the Board shall be residents of the State of North Carolina, and, with the exception of the public-at-large members, shall be licensed by the Board under the provisions of this Article. Professional members of the Board must be actively engaged in the practice of counseling or in the education and training of students in counseling, and have been for at least three years prior to their appointment to the Board. The engagement in this activity during the two years preceding the appointment shall have occurred primarily in this State.

(e) The term of office of each member of the Board shall be three years; provided, however, that of the members first appointed, three shall be appointed for terms of one year, two for terms of two years, and two for terms of three years. No member shall serve more than two consecutive three-year terms.

(f) Each term of service on the Board shall expire on the 30th day of June of the year in which the term expires. As the term of a member expires, the Governor shall make the appointment for a full term, or, if a vacancy occurs for any other reason, for the remainder of the unexpired term. Appointees to the Board shall continue to serve until a successor is appointed and qualified.

(g) Members of the Board shall receive compensation for their services and reimbursement for expenses incurred in the performance of duties required by this Article, at the rates prescribed in G.S. 93B-5.

(h) The Board may employ, subject to the provisions of Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions, and fix their compensation within the limits of funds available to the Board."

SECTION 5. G.S. 90-334 reads as rewritten:

"**§ 90-334. Functions and duties of the Board.**

(a) The Board shall administer and enforce the provisions of this Article.

(b) The Board shall elect from its membership, a chairperson, a vice-chairperson, and secretary-treasurer, and adopt rules to govern its proceedings. A majority of the membership shall constitute a quorum for all Board meetings.

(c) The Board shall examine and pass on the qualifications of all applicants for licenses under this Article, and shall issue a license or renewal of license to each successful applicant therefor.

(d) The Board may adopt a seal which may be affixed to all licenses issued by the Board.

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Article from ~~the fees which it collects, but in no event shall expenditures exceed the revenues of the Board during any fiscal year.~~fees paid to the Board pursuant to this section. No State appropriations shall be subject to the administration of the Board.

(f) The Board shall establish and receive fees not to exceed ~~one~~ three hundred dollars ~~($100.00)~~($300.00) for initial or renewal ~~application, not to exceed one hundred dollars ($100.00) for examination,~~application and not to exceed ~~twenty-five~~one hundred fifty dollars ~~($25.00)~~($150.00) for late renewal, maintain Board accounts of all receipts, and make

expenditures from Board receipts for any purpose which is reasonable and necessary for the proper performance of its duties under this Article.

(g) The Board shall have the power to establish or approve study or training courses and to establish reasonable standards for licensure and license renewal, including but not limited to the power to adopt or use examination materials and accreditation standards of any recognized counselor accrediting agency and the power to establish reasonable standards for continuing counselor education.

(h) Subject to the provisions of Chapter 150B of the General Statutes, the Board shall have the power to adopt, amend, or repeal rules to carry out the purposes of this Article, including but not limited to the power to adopt ethical and disciplinary standards.

(i) The Board shall establish the criteria for determining the qualifications constituting "supervised professional practice".

(j) The Board may ~~examine counselor applicants,~~ examine, approve, issue, deny, revoke, suspend, and renew the licenses of counselor applicants and licensees under this Article, and conduct hearings in connection with these actions.

(k) The Board shall investigate, subpoena individuals and records, and take necessary appropriate action to properly discipline persons licensed under this Article and to enforce this Article."

SECTION 6. G.S. 90-336 reads as rewritten:

"**§ 90-336. Title and qualifications for licensure.**

(a) Each person desiring to be a licensed professional counselor associate, licensed professional ~~counselor~~ counselor, or licensed professional counselor supervisor shall make application to the Board upon such forms and in such manner as the Board shall prescribe, together with the required application fee.

(b) The Board shall issue a license as ~~"licensed professional counselor"~~a "licensed professional counselor associate" to an applicant who meets all of the following criteria:

(1) ~~Has earned one of the following:~~

~~a. A masters degree in counseling from a regionally accredited institution of higher education, which includes a minimum of 48 semester hours.~~

~~b. A graduate degree in a related field supplemented with courses that the Board determines to be substantially equivalent.~~

Has earned a minimum of 48 semester hours or 72 quarter credit hours of graduate training as defined by the Board, including a master's degree in counseling or a related field from a regionally accredited institution of higher education if the applicant was enrolled in the master's program before July 1, 2009; a minimum of 54 semester hours or 81 quarter credit hours of graduate training as defined by the Board, including a master's degree in counseling or a related field from a regionally accredited institution of higher education if the applicant was enrolled in the master's program before July 1, 2013, but after June 30, 2009; or a minimum of 60 semester hours or 90 quarter credit hours of graduate training as defined by the Board, including a master's degree in counseling or a related field from a regionally accredited institution of higher education if the applicant was enrolled in the master's program after June 30, 2013.

~~(2) Has had no less than two years of masters or post masters counseling experience, or of both, in a professional setting, including a minimum of 2,000 hours of supervised professional practice as defined by the Board.~~

(3) Has passed an examination ~~as~~ in accordance with rules adopted by the Board.

(c) The Board shall issue a license as a "licensed professional counselor" to an applicant who meets all of the following criteria:

(1) Has met all of the requirements under subsection (b) of this section.

(2) Has completed a minimum of 3,000 hours of supervised professional practice as determined by the Board.

(d) A licensed professional counselor may apply to the Board for recognition as a "licensed professional counselor supervisor" and receive the credential "licensed professional counselor supervisor" upon meeting all of the following criteria:

(1) Has met all of the requirements under subsection (c) of this section.

(2) Has one of the following:

a. At least five years of full-time licensed professional counseling experience, including a minimum of 2,500 hours of direct client contact;

b. At least eight years of part-time licensed professional counseling experience, including a minimum of 2,500 hours of direct client contact; or

c. A combination of full-time and part-time professional counseling experience, including a minimum of 2,500 hours of direct client contact as determined by the Board.

(3) Has completed minimum education requirements in clinical supervision as approved by the Board.

(4) Has an active license in good standing as a licensed professional counselor approved by the Board."

SECTION 7. G.S. 90-338 reads as rewritten:

"**§ 90-338. Exemptions.**

Applicants holding certificates of registration as Registered Practicing Counselors and in good standing with the Board shall be issued licenses as licensed professional counselors without meeting the requirements of ~~G.S. 90-336(b).~~G.S. 90-336(c). The following applicants shall be exempt from the academic qualifications required by this Article for licensed professional counselor associates or licensed professional counselors and shall be licensed upon passing the Board examination and meeting the experience requirements:

(1) An applicant who was engaged in the practice of counseling before July 1, 1993, and who ~~applies~~ applied to the Board prior to January 1, 1996.

(2) An applicant who holds a masters degree from a college or university accredited by one of the regional accrediting associations or from a college or university determined by the Board to have standards substantially equivalent to a regionally accredited institution, provided the applicant was enrolled in the masters program prior to July 1, 1994."

SECTION 8. G.S. 90-340 reads as rewritten:

"**§ 90-340. Protection of the public.**

(a) The Board may, in accordance with the provisions of Chapter 150B of the General Statutes, ~~refuse to grant or to renew, may suspend, or may revoke the license~~deny, suspend, or revoke licensure, discipline, place on probation, limit practice, or require examination, remediation, or rehabilitation of any person licensed under this Article on one or more of the following grounds:

(1) ~~Conviction of a misdemeanor under this Article.~~Has been convicted of a felony or entered a plea of guilty or nolo contendere to any felony charge under the laws of the United States or of any state of the United States.

(2) ~~Conviction of a felony under the laws of the United States or of any state of the United States.~~Has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor involving moral turpitude,

misrepresentation, or fraud in dealing with the public, or conduct otherwise relevant to fitness to practice professional counseling, or a misdemeanor charge reflecting the inability to practice professional counseling with due regard to the health and safety of clients or patients.

(3) ~~Gross unprofessional conduct, dishonest practice or incompetence in the practice of counseling.~~Has engaged in fraud or deceit in securing or attempting to secure or renew a license under this Article or has willfully concealed from the Board material information in connection with application for a license or renewal of a license under this Article.

(4) ~~Procuring or attempting to procure a license by fraud, deceit, or misrepresentation.~~Has practiced any fraud, deceit, or misrepresentation upon the public, the Board, or any individual in connection with the practice of professional counseling, the offer of professional counseling services, the filing of Medicare, Medicaid, or other claims to any third-party payor, or in any manner otherwise relevant to fitness for the practice of professional counseling.

(5) ~~Any fraudulent or dishonest conduct in counseling.~~Has made fraudulent, misleading, or intentionally or materially false statements pertaining to education, licensure, license renewal, certification as a health services provider, supervision, continuing education, any disciplinary actions or sanctions pending or occurring in any other jurisdiction, professional credentials, or qualifications or fitness for the practice of professional counseling to the public, any individual, the Board, or any other organization.

(6) ~~Inability of the person to perform the functions for which a license has been issued due to impairment of mental or physical faculties.~~Has had a license or certification for the practice of professional counseling in any other jurisdiction suspended or revoked, or has been disciplined by the licensing or certification board in any other jurisdiction for conduct which would subject him or her to discipline under this Article.

(7) ~~Violations of any of the provisions of this Article or rules of the Board.~~Has violated any provision of this Article or any rules adopted by the Board.

(8) ~~Violations of the American Counseling Association Ethical Standards adopted by the Board.~~Has aided or abetted the unlawful practice of professional counseling by any person not licensed by the Board.

(9) Has been guilty of immoral, dishonorable, unprofessional, or unethical conduct as defined in this subsection or in the current code of ethics of the American Counseling Association. However, if any provision of the code of ethics is inconsistent and in conflict with the provisions of this Article, the provisions of this Article shall control.

(10) Has practiced professional counseling in such a manner as to endanger the welfare of clients.

(11) Has demonstrated an inability to practice professional counseling with reasonable skill and safety by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance affecting mental or physical functioning, or as a result of any mental or physical condition.

(12) Has practiced professional counseling outside the boundaries of demonstrated competence or the limitations of education, training, or supervised experience.

(13) Has exercised undue influence in such a manner as to exploit the client, patient, student, supervisee, or trainee for the financial or other personal

advantage or gratification of the licensed professional counselor associate, licensed professional counselor, or a third party.

(14) Has harassed or abused, sexually or otherwise, a client, patient, student, supervisee, or trainee.

(15) Has failed to cooperate with or to respond promptly, completely, and honestly to the Board, to credentials committees, or to ethics committees of professional associations, hospitals, or other health care organizations or educational institutions, when those organizations or entities have jurisdiction.

(16) Has refused to appear before the Board after having been ordered to do so in writing by the chair.

(17) Has a finding listed on the Division of Health Service Regulation of the Department of Health and Human Services Health Care Personnel Registry.

(b) The Board may, in lieu of denial, suspension, or revocation, take any of the following disciplinary actions:

(1) Issue a formal reprimand or formally censure the applicant or licensee.

(2) Place the applicant or licensee on probation with the appropriate conditions on the continued practice of professional counseling deemed advisable by the Board.

(3) Require examination, remediation, or rehabilitation for the applicant or licensee, including care, counseling, or treatment by a professional or professionals designated or approved by the Board, the expense to be borne by the applicant or licensee.

(4) Require supervision of the professional counseling services provided by the applicant or licensee by a licensee designated or approved by the Board, the expense to be borne by the applicant or licensee.

(5) Limit or circumscribe the practice of professional counseling provided by the applicant or licensee with respect to the extent, nature, or location of the professional counseling services provided, as deemed advisable by the Board.

(6) Discipline and impose any appropriate combination of the types of disciplinary action listed in this section.

In addition, the Board may impose conditions of probation or restrictions on continued practice of professional counseling at the conclusion of a period of suspension or as a requirement for the restoration of a revoked or suspended license. In lieu of or in connection with any disciplinary proceedings or investigation, the Board may enter into a consent order relative to discipline, supervision, probation, remediation, rehabilitation, or practice limitation of a licensee or applicant for a license.

(c) The Board may assess costs of disciplinary action against an applicant or licensee found to be in violation of this Article.

(d) When considering the issue of whether an applicant or licensee is physically or mentally capable of practicing professional counseling with reasonable skill and safety with patients or clients, upon a showing of probable cause to the Board that the applicant or licensee is not capable of practicing professional counseling with reasonable skill and safety with patients or clients, the Board may petition a court of competent jurisdiction to order the applicant or licensee in question to submit to a psychological evaluation by a psychologist to determine psychological status or a physical evaluation by a physician to determine physical condition, or both. The psychologist or physician shall be designated by the court. The expenses of the evaluations shall be borne by the Board. Where the applicant or licensee raises the issue of mental or physical competence or appeals a decision regarding mental or physical competence, the applicant or licensee shall be permitted to obtain an evaluation at the applicant

or licensee's expense. If the Board suspects the objectivity or adequacy of the evaluation, the Board may compel an evaluation by its designated practitioners at its own expense.

(e) Except as provided otherwise in this Article, the procedure for revocation, suspension, denial, limitations of the license, or other disciplinary, remedial, or rehabilitative actions, shall be in accordance with the provisions of Chapter 150B of the General Statutes. The Board is required to provide the opportunity for a hearing under Chapter 150B to any applicant whose license or health services provider certification is denied or to whom licensure or health services provider certification is offered subject to any restrictions, probation, disciplinary action, remediation, or other conditions or limitations, or to any licensee before revoking, suspending, or restricting a license or health services provider certificate or imposing any other disciplinary action or remediation. If the applicant or licensee waives the opportunity for a hearing, the Board's denial, revocation, suspension, or other proposed action becomes final without a hearing having been conducted. Notwithstanding the provisions of this subsection, no applicant or licensee is entitled to a hearing for failure to pass an examination. In any proceeding before the Board, in any record of any hearing before the Board, in any complaint or notice of charges against any licensee or applicant for licensure, and in any decision rendered by the Board, the Board may withhold from public disclosure the identity of any clients who have not consented to the public disclosure of services provided by the licensee or applicant. The Board may close a hearing to the public and receive in closed session evidence involving or concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of the treatment or services as may be necessary for the protection and rights of the client of the accused applicant or licensee and the full presentation of relevant evidence.

(f) All records, papers, and other documents containing information collected and compiled by or on behalf of the Board, as a result of investigations, inquiries, or interviews conducted in connection with licensing or disciplinary matters, shall not be considered public records within the meaning of Chapter 132 of the General Statutes. However, any notice or statement of charges against any licensee or applicant, or any notice to any licensee or applicant of a hearing in any proceeding, or any decision rendered in connection with a hearing in any proceeding, shall be a public record within the meaning of Chapter 132 of the General Statutes, though the record may contain information collected and compiled as a result of the investigation, inquiry, or hearing. Any identifying information concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of the treatment or services may be deleted. If any record, paper, or other document containing information collected and compiled by or on behalf of the Board, as provided in this section, is received and admitted in evidence in any hearing before the Board, it shall be a public record within the meaning of Chapter 132 of the General Statutes, subject to any deletions of identifying information concerning the treatment of or delivery of services to a client who has not consented to the public disclosure of treatment or services.

(g) A person whose license has been denied or revoked may reapply to the Board for licensure after one calendar year from the date of the denial or revocation.

(h) A licensee may voluntarily relinquish his or her license at any time. Notwithstanding any provision to the contrary, the Board retains full jurisdiction to investigate alleged violations of this Article by any person whose license is relinquished under this subsection and, upon proof of any violation of this Article by the person, the Board may take disciplinary action as authorized by this section.

(i) The Board may adopt rules deemed necessary to interpret and implement this section."

SECTION 9. G.S. 90-344 is repealed.

SECTION 10. Article 24 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-345. Criminal history record checks of applicants for licensure as professional counselors.

(a) Definitions. – The following definitions shall apply in this section:

(1) Applicant. – A person applying for licensure as a licensed professional counselor associate pursuant to G.S. 90-336(b) or licensed professional counselor pursuant to G.S. 90-336(c).

(2) Criminal history. – A history of conviction of a State or federal crime, whether a misdemeanor or felony, that bears on an applicant's fitness for licensure to practice professional counseling. The crimes include the criminal offenses set forth in any of the following Articles of Chapter 14 of the General Statutes: Article 5, Counterfeiting and Issuing Monetary Substitutes; Article 5A, Endangering Executive and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretenses and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 19B, Financial Transaction Card Crime Act; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; Article 40, Protection of the Family; Article 59, Public Intoxication; and Article 60, Computer-Related Crime. The crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act in Article 5 of Chapter 90 of the General Statutes and alcohol-related offenses including sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.

(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina Department of Justice the fingerprints of the applicant or licensee to be checked; a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the Department of Justice in accordance with G.S. 114-19.26. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the Department of Justice and shall remit the fees to the Department of Justice for expenses associated with conducting the criminal history record check.

(c) If an applicant or licensee's criminal history record check reveals one or more convictions listed under subdivision (a)(2) of this section, the conviction shall not automatically bar licensure. The Board shall consider all of the following factors regarding the conviction:

(1) The level of seriousness of the crime.
(2) The date of the crime.
(3) The age of the person at the time of the conviction.
(4) The circumstances surrounding the commission of the crime, if known.
(5) The nexus between the criminal conduct of the person and the job duties of the position to be filled.
(6) The person's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
(7) The subsequent commission by the person of a crime listed in subdivision (a)(2) of this section.

If, after reviewing these factors, the Board determines that the applicant or licensee's criminal history disqualifies the applicant or licensee for licensure, the Board may deny licensure or reinstatement of the license of the applicant or revoke the license of the licensee. The Board may disclose to the applicant or licensee information contained in the criminal history record check that is relevant to the denial. The Board shall not provide a copy of the criminal history record check to the applicant or licensee. The applicant or licensee shall have the right to appear before the Board to appeal the Board's decision. However, an appearance before the full Board shall constitute an exhaustion of administrative remedies in accordance with Chapter 150B of the General Statutes.

(d) Limited Immunity. – The Board, its officers, and employees, acting in good faith and in compliance with this section, shall be immune from civil liability for denying licensure or reinstatement of a license to an applicant or revoking a licensee's license based on information provided in the applicant or licensee's criminal history record check."

SECTION 11. Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

"**§ 114-19.26. Criminal record checks of applicants for licensure as professional counselors.**

The Department of Justice may provide to the North Carolina Board of Licensed Professional Counselors from the State and National Repositories of Criminal Histories the criminal history of any applicant for licensure or reinstatement of a license or licensee under Article 24 of Chapter 90 of the General Statutes. Along with the request, the Board shall provide to the Department of Justice the fingerprints of the applicant or licensee, a form signed by the applicant or licensee consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant or licensee's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Board shall keep all information obtained pursuant to this section confidential. The Department of Justice may charge a fee to offset the cost incurred by it to conduct a criminal record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information."

SECTION 12. Licensed professional counselors who are approved by the North Carolina Board of Licensed Professional Counselors as qualified clinical supervisors before July 1, 2012, shall have until July 1, 2014, to meet the licensed professional counselor supervisor requirements of G.S. 90-336(d), as enacted in Section 6 of this act.

SECTION 13. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

STATE GOV./STATE PERSONNEL — APRIL 28, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thomas Rhyne	Div of Public Health
Lee Hunter	NCDA&CS
CARL WILLIAMS	NCDHHS
Robin Huffman	NC Psychiatric Assoc
Stephen Thomas, MD	Wake Forest Univ SOM
Thomas Moore	Edwisten & Wall
Pamela Schore	NCASA
Emily Douce	NCDAPA
C. Brockett	ncsba
Alicia Cox	MWC
Amy Schilder	MWC
Ashley Perkinson	Everett Gaskins Hancock + Stevens
Allen Martin	NCDST

VISITOR REGISTRATION SHEET

STATE GOV. / STATE PERSONNEL — APRIL 28, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Poliseno	NCAJA
[signature]	NCPA
Lucy Anders	NCGA Research Staff
Susan Harris	WCPSS
[signature]	SEANC
Suzanne Beasley Maluse	SEANC
Chip Baggett	NCMS
Linda Painter	NCAE
A Sultari	DST
Lisa Johnson	DSS
Carlotta Dixon	DSS

VISITOR REGISTRATION SHEET

STATE GOV./STATE PERSONNEL — APRIL 28, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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Margaret Hartzell	Environment North Carolina
JACK REGISTER	NATIONAL ASSOC Social WORKERS-NC Chapter
Suzanne Walker	LPC ANC - 1746
Dick A. Corbett	LPC Board
Carl Dean	OSP
Penny Hufft	School of Gov.
Pamela Best	AOC
Erin Schwalbe	UNC-GA
Sally Cameron	NC Psychological Assoc
JOHN SHAW	WWWC
Evelyn Newsome	Citizen

VISITOR SPEAKERS SHEET

House Committee on State Government/State Personnel — 4-28-09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME (please print)	FIRM OR AGENCY AND ADDRESS
Suzanne Walker	LPCANC – H746
Margaret Hartzell	Environment North Carolina state fleet efficiency - 1079
Stephen Kramer, MD	H74C (only if needed)
Linda Gunter	NCAE HB213

House Pages

STATE GOV./
STATE PERSONNEL

Name of Committee: _____ Date: April 28, 2009

1. Name: SARAH Sarai Whittington

County: Wilkes

Sponsor: Shirley Randleman

2. Name: _____

County: _____

Sponsor: _____

Name: _____

County: _____

Sponsor: _____

4. Name: _____

County: _____

Sponsor: _____

5. Name: _____

County: _____

Sponsor: _____

Sgt-At-Arms

1. Name: FRED HINES

2. Name: TOUSSAINT AVENT

3. Name: _____

4. Name: _____

Minutes
House Committee on State Government/State Personnel
Thursday, April 30, 2009

The House Committee on State Government/State Personnel met on Thursday, April 30, 2009, immediately after Session (2:30 PM) in Room 424 Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Earl Coker and Martha Gadison.

The following bills were considered:

House Bill 213, SPA Sick Leave Transfers. By motion of Representative Randleman, the proposed committee substitute (PCS) was adopted for discussion. The bill sponsor, Representative Insko, was recognized to explain the bill, which allows State employees, public school employees, and community college employees to transfer up to five days of sick leave per year to a nonfamily member recipient. Following discussion, Representative Womble moved for a favorable report as to the committee substitute bill, which changed the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be referred to the Committee on Education. The motion carried.

House Bill 649, Tax Info Disclosure to State Treasurer. Representative Fisher, sponsor, explained the bill, which would amend the Tax Law to permit Department of Revenue employees to disclose certain information about units of local government to the Department of State Treasurer. Representative Killian moved to give the bill a favorable report and recommendation that it be re-referred to the Committee on Finance. The motion carried.

House Bill 1258, Create Global Engagement Commission. Representative Tolson, sponsor, explained the bill, which would create the Global Engagement Commission to promote economic growth and stimulate job creation in the global economy. Representative Harrell moved for a favorable report and recommendation that the bill be re-referred to the Committee on Rules, Calendar, and Operations of the House. The motion carried.

House Bill 735, Bldg. Code/High Schoolers at Comm. Coll. Representative Tarleton, one of the bill sponsors, explained the bill, which would allow both existing and new community college facilities that comply with State Building Codes and applicable local ordinances to be used without modification for joint or cooperative programs that include students in the 12th grade and below. Vice Chairman Mobley moved for a favorable report on the bill. The motion was adopted.

House Bill 1357, Retired Part-Time LEO/Concealed Carry Permit. Representative McCormick, one of the sponsors, explained the bill, which would exempt

a retired part-time or auxiliary law enforcement officer who has 15 or more aggregate years of service from the firearms safety and training course requirement for a concealed handgun permit. Representative Burr moved for a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary II. The motion carried.

House Bill 1202, Expand Membership/Gen. Statutes Commission. Representative Harrison, one of the sponsors, explained the bill, which would expand the membership of the General Statutes Commission from 12 to 14 members. Representative Wiley moved for a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations. The motion carried.

House Bill 1287, Recycle Products Containing Mercury. By motion of Representative Justus, the proposed committee substitute (PCS) was adopted for discussion. Representative Harrison, one of the bill's sponsors, explained the bill. Scott Mouw of the Department of Environment and Natural Resources spoke favorably on the bill. Representative Mackey moved for a favorable report as to the committee substitute bill, which changed the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Environment and Natural Resources. The motion carried.

House Bill 1496, Study BEACON HR/Payroll Implementation. By motion of Representative Womble, the proposed committee substitute (PCS) was adopted for discussion. Representative Dollar, the bill sponsor, explained the bill, which creates a Joint Legislative Study Commission on the BEACON payroll system and requires the Commission to report to the General Assembly. Representative Killian moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Appropriations. The motion was adopted.

The meeting was adjourned at 3:30 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 213 A BILL TO BE ENTITLED AN ACT TO ALLOW SICK LEAVE TRANSFERS FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT AND FOR PUBLIC SCHOOL EMPLOYEES.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on EDUCATION.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 649 A BILL TO BE ENTITLED AN ACT TO PERMIT DISCLOSURE OF CERTAIN TAX INFORMATION OF LOCAL GOVERNMENTS TO THE DEPARTMENT OF STATE TREASURER.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1258 A BILL TO BE ENTITLED AN ACT CREATING THE GLOBAL ENGAGEMENT COMMISSION.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 735 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE LAW REGARDING BUILDING CODE STANDARDS FOR BUILDINGS USED BY HIGH SCHOOL STUDENTS ATTENDING CLASSES ON COMMUNITY COLLEGE CAMPUSES.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1357 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A FORMER SWORN LAW ENFORCEMENT OFFICER WHO HAS FIFTEEN OR MORE AGGREGATE YEARS OF PART-TIME OR AUXILIARY LAW ENFORCEMENT SERVICE MAY BE EXEMPT FROM THE FIREARMS SAFETY AND TRAINING COURSE REQUIREMENT FOR A CONCEALED HANDGUN PERMIT IF HE OR SHE WAS A QUALIFIED SWORN LAW ENFORCEMENT OFFICER IMMEDIATELY BEFORE RETIRING AND HAS BEEN RETIRED AS A SWORN LAW ENFORCEMENT OFFICER TWO YEARS OR LESS FROM THE DATE OF THE PERMIT APPLICATION.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY II.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1202 A BILL TO BE ENTITLED AN ACT TO EXPAND THE MEMBERSHIP OF THE GENERAL STATUTES COMMISSION TO INCLUDE APPOINTEES FROM ELON UNIVERSITY SCHOOL OF LAW AND THE CHARLOTTE SCHOOL OF LAW (NC), INC.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1287 A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL STATE AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on ENVIRONMENT AND NATURAL RESOURCES.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1496 A BILL TO BE ENTITLED AN ACT CREATING THE JOINT LEGISLATIVE STUDY COMMISSION ON IMPLEMENTATION OF THE BEACON HR/PAYROLL SYSTEM AND APPROPRIATING FUNDS FOR THAT PURPOSE.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Thursday, April 30, 2009, Immediately After Session
Room 424 LOB

Agenda Items

HB 213	SPA Sick Leave Transfers. Representatives Insko, Lucas and Hurley
HB 649	Tax Info Disclosure to State Treasurer Representative Fisher
HB 735	Bldg. Code/High Schoolers at Comm. Coll. Representatives Tarleton and Goforth
HB 1234	Firearms Allowed in Certain State Parks Representative Gibson, III
HB 1357	Retired Part-Time LEO/Concealed Carry Permit Representative McCormick and Mills and Warren
HB 1202	Expand Membership/Gen. Statutes Commission Representatives Harrison and Cotham
HB 1287	Recycle Products Containing Mercury Representative Harrison and Burris-Floyd
HB 1258	Create Global Engagement Commission Representatives Carney, McComas, Tolson and Allen
HB 1496	Study BEACON HR/Payroll Implementation Representative Dollar

Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 213
PROPOSED COMMITTEE SUBSTITUTE H213-PCS70394-SH-24

Short Title: VSL Nonfamily Sick Leave Donations. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NONFAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT, PUBLIC SCHOOL EMPLOYEES, AND COMMUNITY COLLEGE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-8.3 reads as rewritten:

"**§ 126-8.3. Voluntary shared leave.**

(a) The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Personnel Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a nonfamily member employee of a State agency. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 2. G.S. 115C-12.2 reads as rewritten:

"**§ 115C-12.2. Voluntary shared leave.**

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's

immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a nonfamily member employee of a public school. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 3. G.S. 115D-25.3 reads as rewritten:

"**§ 115D-25.3. Voluntary shared leave.**

(a) The State Board of Community Colleges, in cooperation with the State Board of Education and the State Personnel Commission, shall adopt rules and policies to allow any employee at a community college to share leave voluntarily with an immediate family member who is an employee of a community college, public school, or State agency; and with a coworker's immediate family member who is an employee of a community college, public school, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Community Colleges shall adopt rules and policies for the voluntary shared leave program to allow an employee at a community college to donate sick leave to a nonfamily member employee of a community college. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 30 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 4. This act becomes effective January 1, 2010.

HOUSE BILL 213:
SPA Sick Leave Transfers

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Education	**Date:**	April 23, 2009
Introduced by:	Reps. Insko, Lucas, Hurley	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition H213-CSSH-24		

SUMMARY: ***The PCS for House Bill 213 allows State employees, public school employees, and community college employees to transfer up to 5 days of sick leave per year, under the Voluntary Shared Leave program, to a nonfamily member recipient. The total amount of sick leave that can be donated from nonfamily members to a recipient is limited to 30 days per year and the sick leave can not be used for retirement purposes. Donors must be notified in writing of the State retirement credit consequences of donating sick leave.***

[As introduced, this bill was identical to S352, as introduced by Sen. Kinnaird, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW:

- **Voluntary Shared Leave (VSL)** – The State Personnel Commission has adopted a VSL policy for State employees, the State Board of Educations has adopted a policy for public schools employees, and community colleges have a policy at the system office that each community college generally follows but could amend. Although there may be some slight variation among the policies, VSL allows an employee to donate leave to another employee who has been approved to receive voluntary shared leave. An employee would be approved to receive donated leave due to a medical condition of the employee, or of a member of the employee's immediate family that requires the employee's absence for a prolonged or extended period of time. Typically, an employee is prohibited from using voluntary shared leave until all of their available sick and vacation/bonus leave has been exhausted. Generally, a nonfamily member employee may donate vacation leave and a family member may donate vacation or sick leave.

- **G.S. 126-8.3, G.S. 115C-12.2** and **G.S. 115D-25.3** required the State Personnel Commission, the State Board of Education and the State Board of Community Colleges to adopt rules to allow employees of State agencies, public schools, and community colleges to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency. Under these sections, the following terms apply:

  Immediate family member – spouse, parent, child, brother, sister, grandparent, or grandchild, including step, half and in-law relationships.

  Coworker – the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

  The statutes above speak to the sharing of leave generally and do not specify vacation leave or sick leave. However, the policies have generally only permitted the sharing of sick leave between family members.

BILL ANALYSIS:

The Proposed Committee Substitute for HB 213 amends Chapter 126 (for State employees) in Section 1, Chapter 115C (for public school employees) in Section 2, and Chapter 115D (for community college employees) in Section 3, to require the governing board or commission to adopt rules and policies for the Voluntary Shared Leave program to allow an employee to donate sick leave to a nonfamily member employee.

The following provisions are contained in each section of the bill:

- This bill only allows an employee of a State agency to donate sick leave to a nonfamily member employee of a State agency, a public school employee to donate sick leave to a nonfamily member employee of a public school, and a community college employee to donate sick leave to a nonfamily member employee of a community college.
- A donor of sick leave to a nonfamily member recipient is not allowed to donate more than five days of sick leave per year to any one nonfamily member recipient.
- The combined total of sick leave donated to a recipient from nonfamily member donors can not exceed 30 days per year.
- Donated sick leave can not be used for retirement purposes.
- Employees who donate sick leave must be notified in writing of the State retirement credit consequences of donating sick leave.

EFFECTIVE DATE:
House Bill 213 would become effective January 1, 2010.

H213-SMSH-78(CSSH-24) v2

HOUSE BILL 213

Short Title:	SPA Sick Leave Transfers.	(Public)
Sponsors:	Representatives Insko, Lucas, Hurley (Primary Sponsors); Adams, K. Alexander, Cotham, Dollar, Earle, Faison, Fisher, E. Floyd, Harrison, Hughes, Jackson, Jones; Luebke, Parmon, Randleman, Tarleton, Wainwright, and Weiss.	
Referred to:	State Government/State Personnel, if favorable, Education.	

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW SICK LEAVE TRANSFERS FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT AND FOR PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"**§ 126-8.6. Sick leave transfers.**

The State Personnel Commission shall adopt rules and policies to allow an employee subject to the State Personnel Act to transfer up to 30 days of sick leave per year to other State employees subject to the Act, which may only be used for extended illness and may not be used for retirement credit purposes."

SECTION 2. Article 2 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-12.3. Sick leave transfers.**

The State Board of Education shall adopt rules and policies to allow public school employees to transfer up to 30 days of sick leave per year to other public school employees employed within the same local education agency. The transferred sick leave may only be used for extended illness and may not be used for retirement credit purposes."

SECTION 3. This act becomes effective January 1, 2010.

HOUSE BILL 649

Short Title:	Tax Info Disclosure to State Treasurer.	(Public)
Sponsors:	Representative Fisher.	
Referred to:	State Government/State Personnel, if favorable, Finance.	

March 18, 2009

A BILL TO BE ENTITLED

AN ACT TO PERMIT DISCLOSURE OF CERTAIN TAX INFORMATION OF LOCAL GOVERNMENTS TO THE DEPARTMENT OF STATE TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(39) To furnish the Department of State Treasurer with information it requests about whether a unit of local government has timely filed a withholding report, has been charged a penalty, or has paid a penalty, as such information may be helpful in auditing local government accounts pursuant to G.S. 159-34 and determining compliance with The Local Government Finance Act."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2009.

HOUSE BILL 649:
Tax Info Disclosure to State Treasurer

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Finance	**Date:**	April 29, 2009
Introduced by:	Rep. Fisher	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	First Edition		Committee Counsel

SUMMARY: House Bill 649 would amend the Tax Law to permit Department of Revenue employees to disclose certain information about units of local government to the Department of State Treasurer.

[As introduced, this bill was identical to S691, as introduced by Sen. Dorsett, which is currently in Senate Finance.]

BILL ANALYSIS:

Generally, an officer or employee of the State Department of Revenue who has access to tax information may not disclose the information to any other person. However, the law contains a number of exceptions to this rule for specific purposes.

House Bill 649 would add a new exception to the law to allow the Department of State Treasurer to obtain information about whether a unit of local government has filed a withholding report, has been charged a penalty, or has paid a penalty. The Department may request the information to assist in auditing local government accounts and determining whether the local government has complied with the Local Government Finance Act.

EFFECTIVE DATE: This act becomes effective for taxable years beginning on or after January 1, 2009.

H649-SMRO-56(e1) v1

HOUSE BILL 1258

Short Title:	Create Global Engagement Commission.	(Public)
Sponsors:	Representatives Carney, McComas, Tolson, Allen (Primary Sponsors); M. Alexander, Barnhart, Bordsen, Brown, Burris-Floyd, Crawford, Current, Dickson, Faison, Farmer-Butterfield, Fisher, Folwell, Frye, Glazier, Insko, Justice, Killian, Lewis, Lucas, McGee, Neumann, Ross, Samuelson, Steen, Tarleton, Underhill, Weiss, Whilden, Wiley, Wilkins, and Wray.	
Referred to:	State Government/State Personnel, if favorable, Rules, Calendar, and Operations of the House.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT CREATING THE GLOBAL ENGAGEMENT COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Purpose. – There is hereby created the Global Engagement Commission (Commission). The purpose of the Commission is to promote economic growth and stimulate job creation in the global economy.

The Commission shall consist of 20 members appointed as follows:

(1) The Speaker of the House of Representatives shall appoint 10 members of the Commission, including:
   a. Four members of the House of Representatives.
   b. Three members appointed upon the recommendation of the Governor.
   c. Three members who are business chief executive officers, education leaders, or heads of State agencies.

(2) The President Pro Tempore of the Senate shall appoint 10 members of the Commission, including:
   a. Four members of the Senate.
   b. Three members appointed upon the recommendation of the Governor.
   c. Three members who are business chief executive officers, education leaders, or heads of State agencies.

SECTION 2. Charge. – The Commission shall work in conjunction with the Center for International Understanding to develop a Statewide Strategic Plan for Global Engagement. The Commission shall study North Carolina's current international activity in three sectors: business, State government and education (including prekindergarten-12, higher education, and community colleges). The Commission shall identify global indicators in business, State government, and education to be tracked annually in order to gauge improvement over time.

SECTION 3. Reports. – On or before December 31, 2009, the Commission may submit an interim report to the General Assembly on the progress of its study. By May 1, 2010, the Commission shall submit a final report to the General Assembly, including any proposed legislation. The Commission shall terminate upon filing its final report.

SECTION 4. Administration. – The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and the Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The appointing authority shall fill vacancies. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses. The Commission members shall serve without compensation but may receive travel and subsistence as follows:

(1) Members who are officials or employees of a State agency or unit of local government, in accordance with G.S. 138-6.

(2) Members who serve in the General Assembly, in accordance with G.S. 120-3.1.

(3) All other members at the rate established in G.S. 138-5.

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

HOUSE BILL 1258:
Create Global Engagement Commission

2009-2010 General Assembly

Committee:	State Government/State Personnel, if favorable, Rules, Calendar, and Operations of the House	**Date:**	April 30, 2009
Introduced by:	Reps. Carney, McComas, Tolson, Allen	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***House Bill 1258 would create the Global Engagement Commission to promote economic growth and stimulate job creation in the global economy.***

House Bill 1258 has a serial referral to Rules.

BILL ANALYSIS: The Global Engagement Commission (Commission) would consist of 20 members as follows:

- 10 members appointed by the Speaker of the House of Representatives as follows:
  - 4 members of the House of Representatives;
  - 3 members upon the recommendation of the Governor; and
  - 3 members who are business chief executive officers, education leaders, or heads of State agencies.
- 10 members appointed by the President Pro Tempore of the Senate as follows:
  - 4 members of the Senate;
  - 3 members upon the recommendation of the Governor; and
  - 3 members who are business chief executive officers, education leaders, or heads of State agencies.

The Commission would do all of the following:

- work in conjunction with the Center for International Understanding to develop a Statewide Strategic Plan for Global Engagement;
- study North Carolina's current international activity in business, State government, and education; and
- identify global indicators in business, State government and education that can be tracked and compared annually to gauge improvement over time.

The Commission may submit an interim report to the General Assembly on or before December 31, 2009, and must submit its final report by May 1, 2010. The Commission would terminate upon filing its final report.

EFFECTIVE DATE: The act would become effective when it becomes law

BACKGROUND: The Center for International Understanding, with a grant from The William and Flora Hewlett Foundation, convened a public-private leadership group to strategize about positioning North Carolina to take advantage of global opportunities. The North Carolina Global Engagement Initiative aims to create a network of governmental, business and educational organizations to respond to international issues and opportunities in an integrated fashion.

The first project of the Global Engagement Initiative was the Fact-Finding Program to Mexico in March 2008. The delegation's goal was to "investigate opportunities for strengthening business, trade, education and political connections between North Carolina and Mexico."[1] A critical next step was the organization in 2008 of a bi-partisan International Business and Trade Caucus of the North Carolina General Assembly to "focus on the State's current level of international activity and explore ways to strategically increase global engagement to foster economic development."[2] House Bill 1258 is a recommendation of the International Business and Trade Caucus of North Carolina.

H1258-SMSF-45(e1) v1

[1] Engaging North Carolina to Engage in the World – page 4
http://ciu.northcarolina.edu/docs/Education/Global_Engagement_report.for_web.pdf

[2] Engaging North Carolina to Engage in the World – page 3
http://ciu.northcarolina.edu/docs/Education/Global_Engagement_report.for_web.pdf

HOUSE BILL 735

Short Title:	Bldg. Code/High Schoolers at Comm. Coll.	(Public)
Sponsors:	Representatives Tarleton, Goforth (Primary Sponsors); and Faison.	
Referred to:	Education, if favorable, State Government/State Personnel.	

March 23, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING BUILDING CODE STANDARDS FOR BUILDINGS USED BY HIGH SCHOOL STUDENTS ATTENDING CLASSES ON COMMUNITY COLLEGE CAMPUSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-41(b) reads as rewritten:

"(b) ~~Community~~ Existing community college facilities that comply with ~~applicable State, county, and local fire codes~~the North Carolina State Building Code and applicable local ordinances for community college facilities may be used without modification for public school students in joint or cooperative programs such as middle or early college programs and dual enrollment programs. Designs for new community college facilities that comply with the North Carolina State Building Code and applicable local ordinances for community college facilities also may be used without modification for these students.

For the purpose of establishing Use and Occupancy Classifications, these programs shall be considered 'Business – Group B' in the same manner as other community college uses."

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

HOUSE BILL 735:
Bldg. Code/High Schoolers at Comm. Coll

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	April 30, 2009
Introduced by:	Reps. Tarleton, Goforth	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: SUMMARY: House Bill 735 would allow both existing and new community college facilities that comply with State Building Codes and applicable local ordinances to be used without modification for joint or cooperative programs that include students in the 12th grade and below.

CURRENT LAW: G.S. 115D-41(b) allows community colleges to use their facilities for public school students in joint or cooperative programs such as middle or early college and dual enrollment without modification to the applicable State, county, and local fire codes.

BILL ANALYSIS: House Bill 735 would amend G.S. 115D-41(b) to clarify that it is permissible for community colleges to use, without modifications, both existing and new community college facilities that comply with the North Carolina State Building Code and applicable local ordinances for students in joint or cooperative programs such as early college, middle college or dual enrollment. These programs require high school students to be on community college campuses for their classes.

House Bill 735 further clarifies that, for the purpose of establishing Use and Occupancy Classifications, these programs would be considered "Business Group B" in the same way as other community college uses.

EFFECTIVE DATE: This act would become effective when it becomes law.

BACKGROUND: "Business Group B" occupancy includes educational occupancy for students above the 12th Grade and, therefore, community colleges are built to Business – Group B occupancy building code standards. "Educational Group E" occupancy includes the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th Grade. Elementary, middle and high schools are built to Educational Group E building code standards.

Educational Group E standards are more restrictive than Business Group B.

HOUSE BILL 1357

Short Title:	Retired Part-Time LEO/Concealed Carry Permit.	(Public)
Sponsors:	Representatives McCormick, Mills, R. Warren (Primary Sponsors); Daughtry, Faison, Gibson, Moore, Spear, and Wray.	
Referred to:	State Government/State Personnel, if favorable, Judiciary II.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A FORMER SWORN LAW ENFORCEMENT OFFICER WHO HAS FIFTEEN OR MORE AGGREGATE YEARS OF PART-TIME OR AUXILIARY LAW ENFORCEMENT SERVICE MAY BE EXEMPT FROM THE FIREARMS SAFETY AND TRAINING COURSE REQUIREMENT FOR A CONCEALED HANDGUN PERMIT IF HE OR SHE WAS A QUALIFIED SWORN LAW ENFORCEMENT OFFICER IMMEDIATELY BEFORE RETIRING AND HAS BEEN RETIRED AS A SWORN LAW ENFORCEMENT OFFICER TWO YEARS OR LESS FROM THE DATE OF THE PERMIT APPLICATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.10(4) reads as rewritten:

"(4) Qualified former sworn law enforcement officer. – An individual who retired from service as a law enforcement officer with a local, State, campus police, or company police agency in North Carolina, other than for reasons of mental disability, who has been retired as a sworn law enforcement officer two years or less from the date of the permit application, and who satisfies all of the following:

a. Immediately before retirement, the individual was a qualified law enforcement officer with a local, State, or company police agency in North Carolina.

b. The individual has a nonforfeitable right to benefits under the retirement plan of the local, State, or company police agency as a law enforcement ~~officer~~ officer; or has 20 or more aggregate years of law enforcement service and has retired from a company police agency that does not have a retirement ~~plan.~~plan; or has 15 or more aggregate years of part-time or auxiliary law enforcement service.

c. The individual is not prohibited by State or federal law from receiving a firearm."

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

HOUSE BILL 1357:
Retired Part-Time LEO/Concealed Carry Permit

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary II	**Date:**	April 30, 2009
Introduced by:	Reps. McCormick, Mills, R. Warren	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H1357-CSRO-27		

SUMMARY: House Bill 1357 would exempt a retired part-time or auxiliary law enforcement officer who has 15 or more aggregate years of service from the firearms safety and training course requirement for a concealed handgun permit.

CURRENT LAW:

Federal law authorizes current law enforcement officers and certain retired law enforcement officers to carry a concealed weapon without a concealed carry permit. The federal law requires that certain criteria be met, and that the officers be able to provide certain types of identification indicating that the officer or retired officer meets the criteria.

2007, the General Assembly amended the law to provide that law enforcement officers and qualified tired law enforcement officers, who are authorized to carry a concealed handgun pursuant to federal law, may do so in NC without obtaining a concealed carry permit if they are in compliance with the requirements of the federal law.

The law also provides that a qualified retired law enforcement officer may apply to the Commission for certification to meet the criteria of the federal law instead of applying for a concealed carry permit. The new statute requires the Commission to notify the person of the limitations applicable under federal or State law, but failure to receive such a notification is not a defense to a violation of federal or State laws.

BILL ANALYSIS:

House Bill 1357 would amend the definition of the term "Qualified former sworn law enforcement officer" in the Concealed Handgun Permit statute to include anyone who has 15 or more aggregate years of part-time or auxiliary law enforcement service.

EFFECTIVE DATE: This act is effective when it becomes law.

H1357-SMRO-57(CSRO-27) v1

HOUSE BILL 1202

Short Title:	Expand Membership/Gen. Statutes Commission.	(Public)
Sponsors:	Representatives Harrison, Cotham (Primary Sponsors); Faison and Lucas.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE MEMBERSHIP OF THE GENERAL STATUTES COMMISSION TO INCLUDE APPOINTEES FROM ELON UNIVERSITY SCHOOL OF LAW AND THE CHARLOTTE SCHOOL OF LAW (NC), INC.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 164-14 reads as rewritten:

"**§ 164-14. Membership; appointments; terms; vacancies.**

(a) The Commission shall consist of ~~12~~14 members, who shall be appointed as follows:

(1) One member, by the president of the North Carolina State Bar;

(2) One member, by the General Statutes Commission;

(3) One member, by the dean of the school of law of the University of North Carolina;

(4) One member, by the dean of the school of law of Duke University;

(5) One member, by the dean of the school of law of Wake Forest University;

(6) One member, by the Speaker of the House of Representatives of each General Assembly from the membership of the House;

(7) One member, by the President Pro Tempore of the Senate of each General Assembly from the membership of the Senate;

(8) Two members, by the Governor;

(9) One member, by the dean of the school of law of North Carolina Central University;

(10) One member by the president of the North Carolina Bar Association;

(11) One member, by the dean of the school of law of Campbell University.

(12) One member, by the dean of the school of law of Elon University.

(13) One member, by the dean of the Charlotte School of Law (NC), Inc.

(b) Appointments of original members of the Commission made by the president of the North Carolina State Bar, the president of the North Carolina Bar Association, and the deans of the schools of law of Duke University, the University of North Carolina, and Wake Forest University shall be for one year. Appointments of original members of the Commission made by the Speaker of the House of Representatives, the President of the Senate, and the Governor shall be for two years.

(c) After the appointment of the original members of the Commission, appointments by the president of the North Carolina State Bar, the General Statutes Commission, and the deans of the schools of law of North Carolina Central University, Duke University, Elon University, the University of North Carolina, and Wake Forest University shall be made in the even-numbered years, and appointments made by the Speaker of the House of Representatives, the President Pro Tempore of the Senate, president of the North Carolina Bar Association, the

~~dean~~ deans of the School of Law of Campbell University and the Charlotte School of Law (NC), Inc., and the Governor shall be made in the odd-numbered years. Such appointments shall be made for two-year terms beginning June first of the year when such appointments are to become effective and expiring May 31 two years thereafter. All such appointments shall be made not later than May 31 of the year when such appointments are to become effective.

(d) If any appointment provided for by this section is not made prior to June first of the year when it should become effective, a vacancy shall exist with respect thereto, and the vacancy shall then be filled by appointment by the Governor. If any member of the Commission dies or resigns during the term for which he was appointed, his successor for the unexpired term shall be appointed by the person who made the original appointment, as provided in G.S. 164-14, or by the successor of such person; and if such vacancy is not filled within 30 days after the vacancy occurs, it shall then be filled by appointment by the Governor. In any case where an appointment authorized to be made by G.S. 164-14(c) has not been made on or before July 31 of the year in which it was due to be made, a vacancy shall exist with respect to that appointment and the General Statutes Commission at its next meeting shall by majority vote fill the vacancy by appointment.

(e) All appointments shall be reported to the secretary of the Commission.

(f) Notwithstanding the expiration of the term of the appointment, the terms of members of the General Statutes Commission shall continue until the appointment of a successor has been made and reported to the secretary of the Commission."

SECTION 2. This act is effective when it becomes law. The initial appointment by the dean of the school of law for Elon University shall be for the term ending May 31, 2010. The initial appointment by the dean of the Charlotte School of Law (NC), Inc., shall be for the term ending May 31, 2011.

HOUSE BILL 1202:
Expand Membership/Gen. Statutes Commission

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	April 30, 2009
Introduced by:	Reps. Harrison, Cotham	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	First Edition		

SUMMARY: House Bill 1202 expands the membership of the General Statutes Commission from 12 to 14 members adding an appointment by the dean of the Elon University school of law and an appointment by the dean of the Charlotte School of Law (NC), Inc.

CURRENT LAW:

Article 2 of Chapter 164 creates The General Statutes Commission.

G.S. 164-13 provides for the duties of the Commission as follows:

- To advise and cooperate with the Division of Legislative Drafting and Codification of Statutes of the Department of Justice in the work of continuous statute research and correction for which the Division is made responsible by G.S. 114-9(3).
- To advise and cooperate with the Division of Legislative Drafting and Codification of Statutes in the preparation and issuance by the Division of supplements to the General Statutes pursuant to G.S. 114-9(2).
- To make a continuing study of all matters involved in the preparation and publication of modern codes of law.
- To recommend to the General Assembly the enactment of such substantive changes in the law as the Commission may deem advisable.
- To receive and consider proposed changes in the law recommended by the American Law Institute, by the National Conference of Commissioners on Uniform State Laws or by other learned bodies.

BILL ANALYSIS:

House Bill 1202 amends G.S. 164-14 to add the following members to the General Statutes Commission:

- One (1) member appointed by the dean of the school of law of Elon University.
- One (1) member appointed by the dean of the Charlotte School of Law (NC), Inc.

The bill provides that the appointment by the dean of the school of law of Elon University must be made in the even-numbered years and the appointment by the dean of the Charlotte School of Law (NC), Inc. must be made in the odd numbered years. Under the current law, appointments must be made not later than May 31 of the year the appointment is to become effective and the appointments are for two-year terms beginning June first of the year the appointment is made.

EFFECTIVE DATE:

Section 2 of the bill provides that the bill would become effective when it becomes law. It further provides that the initial appointment by the dean of the school of law for Elon University will be for the term ending May 31, 2010, and the initial appointment by the dean of the Charlotte School of Law (NC), Inc. will be for the term ending May 31, 2011.

H1202-SMSH-94(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1287
PROPOSED COMMITTEE SUBSTITUTE H1287-PCS80382-RI-11

Short Title: Recycle Products Containing Mercury. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL STATE AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY-CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by State agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, and political subdivisions using State funds shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, and political subdivisions shall submit a report on or before February 1, 2010, that documents the agency's compliance with the requirements of subsection (a) of this section to the Department of Environment and Natural Resources and the Department of Administration. The Departments shall compile the information submitted and jointly shall submit a report to the Environmental Review Commission on or before May 1, 2010, concerning the activities required by subsection (a) of this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury-containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 2. G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 3. This act is effective when it becomes law, except that: (i) the recycling program required by G.S. 130A-310.60, as enacted by Section 1 of this act, shall be established and implemented by each State agency by December 1, 2009; and (ii) Section 2 of this act becomes effective December 1, 2009, and applies to offenses committed on or after that date.

HOUSE BILL 1287:
Recycle Products Containing Mercury

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Environment and Natural Resources	**Date:**	April 30, 2009
Introduced by:	Reps. Harrison, Burris-Floyd	**Prepared by:**	Shirley Iorio, Ph D* Legislative Analyst
Analysis of:	PCS to First Edition H1287-CSRI-11		

SUMMARY: SUMMARY: The Proposed Committee Substitute (PCS) for House Bill 1287 would: (i) require all State agencies to establish a program for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices; (ii) require removal of all fluorescent lights and thermostats that contain mercury from buildings prior to demolition; and (iii) prohibit the disposal of fluorescent lights and thermostats that contain mercury in unlined landfills.

The PCS would (1) modify the reporting requirements, and (2) change the date on which the landfill disposal ban would become effective from July 1, 2009, to December 1, 2009.

CURRENT LAW:

.S.130A-309.14 governs other recycling requirements applicable to State agencies and requires all gencies to have a program to collect recyclable materials, specifically including aluminum, newspaper, sorted office paper, recyclable glass, and plastic bottles.

Items banned from disposal in landfills include: used oil; yard trash; white goods; antifreeze; aluminum cans; whole scrap tires; lead-acid batteries; beverage containers that are required to be recycled by ABC permittees; motor vehicle oil filters (effective October 1, 2009); wooden pallets, except that wooden pallets may be disposed of in a landfill that is permitted to only accept construction and demolition debris (effective October 1, 2009); oyster shells; discarded computer equipment (effective January 1, 2011); and discarded televisions (effective January 1, 2011).[1]

BILL ANALYSIS: The PCS would:

- Require all State agencies to: (i) implement a program by December 1, 2009 for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices; and (ii) report on their compliance with this requirement to the Department of Environment and Natural Resources (DENR) and the Department of Administration (DOA) on or before February 1, 2010. DENR and DOA would then compile the information submitted from all agencies and jointly submit a report to the Environmental Review Commission on or before May 1, 2010.
- Require a contractor responsible for building demolition or an owner of property to be demolished to remove all fluorescent lights and thermostats that contain mercury from the building prior to demolition.

[1] These items are banned from disposal in ***all landfills***. The disposal ban proposed under the PCS covering fluorescent lights and thermostats containing mercury would only be applicable to sanitary landfill for the disposal of construction and demolition debris, and other unlined landfills.

- Prohibit the disposal of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris, and other unlined landfills. This ban would become effective December 1, 2009. A knowing violation of this provision would subject the violator to the imposition of administrative penalties, and would be punishable as a Class 1 misdemeanor.[2,3]

EFFECTIVE DATE: The act would become effective when it becomes law, except (i) the recycling program as enacted by Section 1. would be established and implemented by each State agency by December 1, 2009, and (ii) Section 2 would become effective December 1, 2009, and would apply to offenses committed on or after that date.

BACKGROUND: Mercury is a toxic metal that can harm the brain, heart, kidneys, lungs, and immune system. It is found in certain consumer and industrial products, including fluorescent lights and thermostats. Improper disposal of such products can result in the release of mercury to the environment. Fragile products, such as fluorescent lights, may break during transportation and release mercury into the air. If a mercury-containing product ends up in a landfill, the mercury can leach into the surrounding soil or be released into the atmosphere.

Jennifer McGinnis, counsel to Environment and Natural Resources, substantially contributed to this summary.

H1287-SMSF-44(CSRI-11) v2

[2] See GS 130A-22 (Administrative Penalties) and GS 130A-25(a) (Misdemeanor)/GS 14-3(a) (Punishment of Misdemeanors...).

[3] The range of punishment for a Class 1 misdemeanor, assuming no prior convictions, is 1-45 days community punishment.

HOUSE BILL 1287

Short Title:	Recycle Products Containing Mercury.	(Public)
Sponsors:	Representatives Harrison, Burris-Floyd (Primary Sponsors); M. Alexander, Bryant, Cotham, Faison, Fisher, Glazier, Insko, Justice, Lucas, Luebke, Underhill, Weiss, and Wray.	
Referred to:	State Government/State Personnel, if favorable, Environment and Natural Resources.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE ALL STATE AGENCIES TO RECYCLE ALL SPENT FLUORESCENT LIGHTS AND MERCURY THERMOSTATS; REQUIRE THE REMOVAL OF ALL FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS PRIOR TO DEMOLITION; AND BAN MERCURY CONTAINING PRODUCTS FROM UNLINED LANDFILLS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new Part to read:

"Part 7. Management of Certain Products That Contain Mercury.

"**§ 130A-310.60. Recycling required by State agencies.**

(a) Each State agency, including the General Assembly, the General Court of Justice, universities, community colleges, and political subdivisions using State funds shall establish a program in cooperation with the Department of Environment and Natural Resources and the Department of Administration for the collection and recycling of all spent fluorescent lights and thermostats that contain mercury generated in State offices. The program shall include procedures for convenient collection, safe storage, and proper recycling of spent fluorescent lights and thermostats that contain mercury and contractual or other arrangements with buyers of the recyclable materials.

(b) The Department of Environment and Natural Resources and the Department of Administration jointly shall submit a report to the Environmental Review Commission on or before May 1, 2010, concerning the activities required under this section. The information provided shall also be included in the report required by G.S. 130A-309.06(c).

"**§ 130A-310.61. Removal and recycling of mercury containing products from structures to be demolished.**

Prior to demolition of any building or structure in the State, the contractor responsible for the demolition activity or the owner of the building or structure to be demolished shall remove all fluorescent lights and thermostats that contain mercury from the building or structure to be demolished."

SECTION 2. G.S. 130A-309.10 is amended by adding a new subsection to read:

"(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain mercury in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other landfill that is unlined."

SECTION 3. This act becomes effective July 1, 2009, except that the recycling program required by G.S. 130A-310.60, as enacted by Section 1 of this act, shall be established and implemented by each State agency by December 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1496
PROPOSED COMMITTEE SUBSTITUTE H1496-PCS50629-SH-37

Short Title: Study BEACON HR/Payroll Implementation. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT CREATING THE JOINT LEGISLATIVE STUDY COMMISSION ON IMPLEMENTATION OF THE BEACON HR/PAYROLL SYSTEM AND APPROPRIATING FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is created the Joint Legislative Study Commission on BEACON HR/Payroll System Implementation (Commission). The Commission shall consist of 16 voting members appointed as follows:

(1) Eight members appointed by the Speaker of the House of Representatives, to include:
   a. Four members of the House of Representatives.
   b. One person in the field of information technology.
   c. One person who is a State agency human resources professional.
   d. One person with expertise in payroll systems.
   e. One member of the general public.

(2) Eight members appointed by the President Pro Tempore of the Senate, to include:
   a. Four members of the Senate.
   b. One person in the field of information technology.
   c. One person who is a State agency human resources professional.
   d. One person with expertise in payroll systems.
   e. One member of the general public.

The State Chief Information Officer, or that officer's designee, shall serve as an ex officio nonvoting member of the Commission.

SECTION 1.(b) The Commission shall:

(1) Examine implementation of the BEACON HR/Payroll system.

(2) Review the costs associated with the BEACON HR/Payroll project, including an analysis of the initial cost estimate, projected final cost of full implementation, and the ongoing cost of the system's operation within State agencies.

(3) Review the impact of BEACON HR/Payroll implementation on State agencies and employees.

(4) Study any other matter related to the BEACON HR/Payroll system that the Commission deems relevant.

(5) Make an interim report to the 2010 Regular Session of the 2009 General Assembly upon its convening.

(6) Make a final report to the 2011 General Assembly that includes findings, recommendations, and legislative proposals relating to the BEACON HR/Payroll project.

SECTION 1.(c) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives' and the Senate's Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The appointing authority shall fill vacancies. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

(1) Commission members who are members of the General Assembly, at the rate established in G.S. 120-3.1.

(2) Commission members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6.

(3) All other Commission members, at the rate established in G.S. 138-5.

SECTION 1.(d) The Commission shall terminate upon filing its final report.

SECTION 2. There is appropriated from the General Fund to the General Assembly the sum of fifty thousand dollars ($50,000) for the 2009-2010 fiscal year and the sum of fifty thousand dollars ($50,000) for the 2010-2011 fiscal year to fund the work of the Commission.

SECTION 3. This act becomes effective July 1, 2009.

HOUSE BILL 1496:
Study BEACON HR/Payroll Implementation

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	April 29, 2009
Introduced by:	Rep. Dollar	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition H1496-CSSH-37		

SUMMARY: ***House Bill 1496 creates a Joint Legislative Study Commission on BEACON HR/Payroll System Implementation and requires the Commission to report to the General Assembly.***

The Proposed Committee Substitute clarifies language in Section 1(b) regarding the duties of the Commission and makes technical changes in Section 1(c).

BILL ANALYSIS:

The Proposed Committee Substitute for House Bill 1496 creates the Joint Legislative Study Commission on BEACON HR/Payroll system Implementation. The Commission will consist of 16 voting members and one ex officio nonvoting member as outlined below.

- The Speaker of the House of Representatives will appoint eight (8) members as follows:
  - Four (4) members of the House of Representatives.
  - One (1) person in the field of information technology.
  - One (1) person who is a State agency human resources professional.
  - One (1) person with expertise in payroll systems.
  - One (1) member of the general public.
- The President Pro Tempore of the Senate will appoint eight (8) members as follows:
  - Four (4) members of the Senate.
  - One (1) person in the field of information technology.
  - One (1) person who is a State agency human resources professional.
  - One (1) person with expertise in payroll systems.
  - One (1) member of the general public.
- The State Chief Information Officer, or designee, will serve as an ex officio nonvoting member.

Section 1(c) requires the Speaker of the House and the President Pro Tempore of the Senate to each appoint a cochair. The section also provides for staff and meeting locations. Additionally, it provides guidance on per diem, subsistence, and travel allowances for the Commission members as prescribed in current law. The Proposed Committee Substitute changes the word "Committee" to "Commission" on page 2, lines 14-20 of the original bill.

The PCS requires the Commission to address the following issues:

- Implementation of the BEACON HR/Payroll system.
- Review costs associated with the BEACON HR/Payroll project, including an analysis of the initial cost estimate, projected final cost of full implementation, and the ongoing cost of the system's operation within State agencies.
- Review the impact of BEACON HR/Payroll implementation on State agencies and employees.
- Any other matter related to the BEACON HR/Payroll system that the Commission deems relevant.

The Commission is required to make an interim report to the 2010 Regular Session of the General Assembly upon its convening, and a final report to the 2011 General Assembly. The report must include findings, recommendations, and legislative proposals relating to the BEACON HR/ Payroll project. The Commission will terminate upon filing its final report.

Section 2 appropriates $50,000 for the 2009-2010 fiscal year and $50,000 for the 2010-2011 fiscal year to fund the work of the Legislative Study Commission on BEACON HR/Payroll System Implementation.

EFFECTIVE DATE:

House Bill 1496 would become effective July 1, 2009

H1496-SMSH-92(CSSH-37) v3

HOUSE BILL 1496

Short Title:	Study BEACON HR/Payroll Implementation.	(Public)
Sponsors:	Representatives Dollar; Hurley and Lewis.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 13, 2009

A BILL TO BE ENTITLED

AN ACT CREATING THE JOINT LEGISLATIVE STUDY COMMISSION ON IMPLEMENTATION OF THE BEACON HR/PAYROLL SYSTEM AND APPROPRIATING FUNDS FOR THAT PURPOSE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) There is created the Joint Legislative Study Commission on BEACON HR/Payroll System Implementation (Commission). The Commission shall consist of 16 voting members appointed as follows:

(1) Eight members appointed by the Speaker of the House of Representatives, to include:
   a. Four members of the House of Representatives.
   b. One person in the field of information technology.
   c. One person who is a State agency human resources professional.
   d. One person with expertise in payroll systems.
   e. One member of the general public.

(2) Eight members appointed by the President Pro Tempore of the Senate, to include:
   a. Four members of the Senate.
   b. One person in the field of information technology.
   c. One person who is a State agency human resources professional.
   d. One person with expertise in payroll systems.
   e. One member of the general public.

The State Chief Information Officer, or that officer's designee, shall serve as an ex officio nonvoting member of the Commission.

SECTION 1.(b) The Commission shall:

(1) Examine implementation of the BEACON HR/Payroll system.
(2) Review the costs associated with the BEACON HR/Payroll project, including from the initial cost estimates to the current and project final costs of BEACON HR/Payroll implementation.
(3) Review the impact of BEACON HR/Payroll implementation on State agencies and employees.
(4) Study any other matter related to the BEACON HR/Payroll system that the Commission deems relevant.
(5) Make an interim report to the 2010 Regular Session of the 2009 General Assembly upon its convening.

(6) Make a final report to the 2011 General Assembly that includes findings, recommendations, and legislative proposals relating to the BEACON HR/Payroll project.

SECTION 1.(c) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives' and the Senate's Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The appointing authority shall fill vacancies. The Commission, while in the discharge of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them and the power to subpoena witnesses. Members of the Committee shall receive per diem, subsistence, and travel allowances as follows:

(1) Committee members who are members of the General Assembly, at the rate established in G.S. 120-3.1.

(2) Committee members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6.

(3) All other Committee members, at the rate established in G.S. 138-5.

SECTION 1.(d) The Commission shall terminate upon filing its final report.

SECTION 2. There is appropriated from the General Fund to the General Assembly the sum of fifty thousand dollars ($50,000) for the 2009-2010 fiscal year and the sum of fifty thousand dollars ($50,000) for the 2010-2011 fiscal year to fund the work of the Commission.

SECTION 3. This act becomes effective July 1, 2009.

VISITOR REGISTRATION SHEET

House Committee on State Govt/State Personnel
Name of Committee

4-30-09-PM
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BARRY GUPTON	NCDOI 322 CHAPANOKE ROAD RALEIGH, NC 27603
Travis Wherry	North Carolina Center for International Understanding 100 E. Six Forks Road, Raleigh, NC 27609
Stephanie Caplan	Center for International Understanding 100 East Six Forks Rd., Raleigh NC 27609
Jenn Conely	NCSCA
Emily DOYle	NCPAPA
Linda Dunden	NCAE
Thomas Cheeks	OSC
Leonard Mobley	ABC
DAVID BARNES	Power Systems
Mallory Hatcher	MWC
Jessica Hayes	NCHBA

VISITOR REGISTRATION SHEET

State Govt. Personnel — 4-30-09 - PM
Name of Committee — Date 4-30-09

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Suzanne Beasley Malyse	SEANC
Ardis Watkins	SEANC
A. Solari	DST
Thomas Hunter	NC Community Colleges
Jennifer Willis	NCCCS
Lewis Ledford	DENR - Parks
Scott Mouw	NC DENR
Katie Burdett	NC DENR
Rachel Eckert	NC DENR
Eddie Caldwell	NC Sheriffs' Assn.
Anita Watkins	UNCGA

Minutes
House Committee on State Government/State Personnel
Tuesday, May 5, 2009

The House Committee on State Government/State Personnel met on Tuesday, May 5, 2009, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Toussaint Avent, Fred Hines, Young Soon Bae, and James Worth.

Chairman Wilkins introduced the pages for the meeting: Hannah Reynolds from Person County, sponsored by Speaker Hackney, and D'Andrea Newsome of Cumberland County, sponsored by Representative Floyd. Chairman Wilkins noted that his wife, Frances Wilkins, was in the audience and attending her first legislative committee meeting.

The following bills were considered:

HB 1342, RVAP/Ensure Grant Eligibility. Representative Bordsen, one of the bill sponsors, explained the bill, which amends the Assistance Program for Victims of Rape and Sex Offenses. Following discussion, Representative Mackey moved for a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations. The motion carried.

HB 543, No Penalty for Comm. Coll. Audit Exception. Representative Tolson, a bill sponsor, explained the bill, which would remove a 25% fiscal penalty for community college audit exceptions. Vice Chairman Harrell moved for a favorable report on the bill. The motion carried.

HB 749, Use of Cisterns in Construction/Renovation. Representative Alexander, the bill's sponsor, explained that the bill would authorize the State Building Code Council to permit the use of cisterns to provide water for flushing toilets and for outdoor irrigation in the construction or renovation of residential or commercial buildings. Representative Womble moved for a favorable report on the bill. The motion carried.

HB 1168, Title Protection/Social Workers. By motion of Representative Randleman, the proposed committee substitute (PCS) was adopted for discussion. Representative Glazier, one of the bill's sponsors, explained that the bill amends the Social Worker Certification and Licensure Act to prohibit the unauthorized use of the title "Social Worker" by individuals lacking the required academic credentials. During the ensuing discussion, both Mr. Jack Register of the National Association of Social Workers – NC Chapter, and Mr. Earl Marett of the Johnston County D.S.S. spoke on the bill. Representative Mackey moved for a favorable report as to the committee substitute

bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Judiciary II. The motion carried.

HB 1129, Clarify Silver Alert-All Ages. Representative Mobley, one of the bill's sponsors, explained that the bill changes the word "adult" to "person" in order to conform current law with the intent of S.L. 2008-83. Representative Womble moved for a favorable report on this bill. The motion carried.

HB 912, Encourage Use of Military Veteran Contractors. Representative Killian, one of the bill's sponsors, explained the bill. He also offered an amendment, which he moved for adoption. His motion carried. Following discussion, Representative Burr moved for a favorable report as to Committee Substitute Bill #2, unfavorable as to Committee Substitute Bill #1. The motion carried.

HB 406, West Just. Acad./Wildlife Res. Firing Range. By motion of Representative Sager, the proposed committee substitute (PCS) was adopted for discussion. Representative Justus explained that her bills (HB 405 and HB 406) were being combined into one bill. Following discussion, Representative Sutton moved for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Wildlife Resources. The motion carried.

The committee adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1342 A BILL TO BE ENTITLED AN ACT TO ENSURE THAT NORTH CAROLINA CONTINUES TO BE ELIGIBLE FOR STOP VIOLENCE AGAINST WOMEN FORMULA GRANT PROGRAM FUNDING; AND TO INCREASE THE AUTHORITY OF THE DIRECTOR OF THE CRIME VICTIMS COMPENSATION COMMISSION AND THE COMMISSION ITSELF TO CONSIDER PROXIMATE CAUSE WHEN DETERMINING WHETHER TO MAKE AN AWARD; AND TO MAKE VARIOUS OTHER CHANGES TO THE RAPE VICTIMS ASSISTANCE PROGRAM.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 543 A BILL TO BE ENTITLED AN ACT TO REPEAL THE PENALTY FOR COMMUNITY COLLEGE AUDIT EXCEPTIONS.

☒ 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 _____.

_____ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
HB 749 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE STATE BUILDING CODE TO PERMIT THE USE OF CISTERNS TO PROVIDE WATER FOR FLUSHING TOILETS AND FOR OUTDOOR IRRIGATION IN THE CONSTRUCTION OR RENOVATION OF RESIDENTIAL OR COMMERCIAL BUILDINGS OR STRUCTURES AND TO PROHIBIT ANY STATE, COUNTY, OR LOCAL BUILDING CODE OR REGULATION FROM PROHIBITING THE USE OF CISTERNS FOR THESE USES.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1168 A BILL TO BE ENTITLED AN ACT TO ESTABLISH TITLE PROTECTION FOR SOCIAL WORKERS AND AUTHORIZE A REVIEW OF THE OFFICE OF STATE PERSONNEL SOCIAL WORK SERIES EVERY FOUR YEARS.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY II.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1129 A BILL TO BE ENTITLED AN ACT TO CLARIFY A SILVER ALERT MAY BE ISSUED FOR A PERSON OF ANY AGE WHO IS BELIEVED TO BE SUFFERING FROM DEMENTIA OR OTHER COGNITIVE IMPAIRMENT.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 912 A BILL TO BE ENTITLED AN ACT TO ENCOURAGE STATE AND LOCAL GOVERNMENT TO USE MILITARY VETERAN CONTRACTORS.

☒ With a favorable report as to 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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 406 A BILL TO BE ENTITLED AN ACT TO DIRECT THE DEPARTMENT OF JUSTICE AND THE WILDLIFE RESOURCES COMMISSION TO JOINTLY DEVELOP A PLAN FOR CONSTRUCTION OF A FIRING RANGE FOR USE BY CRIMINAL JUSTICE OFFICERS ATTENDING THE WESTERN JUSTICE ACADEMY, LAW ENFORCEMENT OFFICERS OF THE WILDLIFE RESOURCES COMMISSION, AND OTHERS.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on WILDLIFE RESOURCES.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, May 5, 2009, 2:00 PM
Room 424 LOB

AGENDA ITEMS

✓ HB 1342	RVAP/Ensure Grant Eligibility. Representatives Bordsen, McLawhorn, Howard and Justus
✓ HB 1168	Title Protection/Social Workers. Representatives Glazier, Dickson, England and Wainwright
✓ HB 912	Encourage Use of Military Veteran Contractors. Representatives Killian, Sutton, Parmon and McElraft
✓ HB 405	Western Justice Academy Firing Range. Representatives Justus and Guice
✓ HB 406	West. Just. Acad./Wildlife Res. Firing Range. Representatives Justus and Guice
✓ HB 543	No Penalty for Comm. Coll. Audit Exception. Representatives Tarleton, Tolson, Warren and Wiley
✓ HB 749	Use of Cisterns in Construction/Renovation. Representative Kelly M. Alexander, Jr.
HB 780	Building Code/Exempt Equestrian Arenas. Representative Brubaker
HB 808	Study Community College Construction Process. Representatives Gulley and Dockham
HB 848	Magistrates Provide Appointment of Counsel. Representative Tillis
✓ HB 1129	Clarify Silver Alert-All Ages. Representatives Mobley, Parmon, Womble and Burris-Floyd
HB 1278	High Unemployment Triggers State Response. Representative Pierce

ADJOURN

HOUSE BILL 1342

Short Title:	RVAP/Ensure Grant Eligibility.	(Public)
Sponsors:	Representatives Bordsen, McLawhorn, Howard, Justus (Primary Sponsors); Cotham, Dickson, Faison, Glazier, Harrison, Insko, Lucas, Luebke, Mobley, Parmon, Ross, and Weiss.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO ENSURE THAT NORTH CAROLINA CONTINUES TO BE ELIGIBLE FOR STOP VIOLENCE AGAINST WOMEN FORMULA GRANT PROGRAM FUNDING; AND TO INCREASE THE AUTHORITY OF THE DIRECTOR OF THE CRIME VICTIMS COMPENSATION COMMISSION AND THE COMMISSION ITSELF TO CONSIDER PROXIMATE CAUSE WHEN DETERMINING WHETHER TO MAKE AN AWARD; AND TO MAKE VARIOUS OTHER CHANGES TO THE RAPE VICTIMS ASSISTANCE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143B-480.2 is repealed.

SECTION 1.(b) G.S. 143B-480.1 reads as rewritten:

"**§ 143B-480.1. Assistance Program for Victims of Rape and Sex Offenses.**

(a) Establishment of Program. – There is established an Assistance Program for Victims of Rape and Sex Offenses, hereinafter referred to as the "Program." The Secretary shall administer and implement the Program and shall have authority over all assistance awarded through the Program. The Secretary shall promulgate rules and guidelines for the Program.

(b) Victims to Be Provided Free Forensic Medical Examinations. – It is the policy of this State to arrange for victims to obtain forensic medical examinations free of charge. Whenever a forensic medical examination is conducted as a result of a sexual assault or an attempted sexual assault that occurred in this State, the Program shall pay for the cost of the examination. A medical facility or medical professional that performs a forensic medical examination on the victim of a sexual assault or attempted sexual assault shall not seek payment for the examination except from the Program.

(c) No Billing of Victim. – A medical facility or medical professional that performs a forensic medical examination shall accept payment made under this section as payment in full of the amount owed for the cost of the examination and other eligible expenses and shall not bill victims, their personal insurance, Medicaid, Medicare, nor any other collateral source for the examination. Furthermore, a medical facility or medical professional shall not seek reimbursement from the Program after one year from the date of the examination.

(d) Eligible Expenses. – Medical facilities and medical professionals who perform forensic medical examinations shall do so using a Sexual Assault Evidence Collection Kit. Payments by the Program for the forensic medical examination shall be limited to the following:

Service	**Maximum Amount Paid by Program**
Physician or SANE Nurse	$350.00

Hospital/Facility Fee	$250.00
Other Expenses Deemed Eligible by the Program	$200.00
Total:	**$800.00**

(e) Payment Directly to Provider. – The Program shall make payment directly to the medical facility or medical professional. Bills submitted to the Program for payment shall specify which of the categories of expense set forth in subsection (d) of this section the services billed for fall within.

(f) Additional Victim Notification Requirements. – A medical facility or medical professional who performs a forensic medical examination shall encourage victims to submit an application for reimbursement of medical expenses beyond the forensic examination to the Crime Victims Compensation Commission for consideration of those expenses. The victim must meet the eligibility requirements of the Crime Victims Compensation Commission to be reimbursed for those additional expenses. A medical facility or medical professional who performs a forensic medical examination shall also inform victims before providing any services that are not covered by the Program. Medical facilities and medical professionals shall not seek reimbursement from the Program after one year from the date of the exam.

(g) Judicial Review. – Upon an adverse determination by the Secretary on a claim for assistance under this Part, a victim is entitled to judicial review of that decision. The person seeking review shall file a petition in the Superior Court of Wake County.

(h) The Secretary shall adopt rules to encourage, whenever practical, the use of licensed registered nurses trained under G.S. 90-171.38(b) to conduct medical examinations and procedures.

(i) Definitions. – The following definitions apply in this section:

(1) Forensic medical examination. – An examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law. The examination should include at a minimum an examination of physical trauma, a patient interview, a determination of penetration or force, and a collection and evaluation of evidence. This definition shall be interpreted consistently with 28 C.F.R. § 90.2(b) and other relevant federal law.

(2) SANE nurse. – A Sexual Assault Nurse Examiner that is a licensed registered nurse trained pursuant to G.S. 90-171.38(b) who obtains preliminary histories, conducts in-depth interviews, and conducts medical examinations of rape victims or victims of related sexual offenses.

(3) Sexual assault. – Any of the following crimes:

a. First-degree rape as defined in G.S. 14-27.2.

b. Second degree rape as defined in G.S. 14-27.3.

c. First-degree sexual offense as defined in G.S. 14-27.4.

d. Second degree sexual offense as defined in G.S. 14-27.5.

e. Statutory rape as defined in G.S. 14-27.7A.

(4) Sexual Assault Evidence Collection Kit. – The kit assembled and paid for by the Program and used to conduct forensic medical examinations in this State."

SECTION 2. G.S. 143B-480.3 reads as rewritten:

"**§ 143B-480.3. Reduction of benefits; restitution; actions.**

(a) Assistance shall be reduced or denied to the extent the medical expenses are recouped through a public or private insurance plan or other victim benefit ~~source, except that the Program shall pay any co-payment that the victim is required to pay in connection with the forensic medical examination up to the maximum amount that the Program will pay for a forensic medical exam under G.S. 143B-480.2(c).~~source.

(b) The Program shall be an eligible recipient for restitution or reparation under G.S. 15A-1021, 15A-1343, 148-33.1, 148-33.2, 148-57.1, and any other applicable statutes.

(c) When any victim who:

(1) Has received assistance under this Part;

(2) Brings an action for damages arising out of the rape, attempted rape, sexual offense, or attempted sexual offense for which she received that assistance; and

(3) Recovers damages including the expenses for which she was awarded assistance,

the court shall make as part of its judgment an order for reimbursement to the Program of the amount of any assistance awarded less reasonable expenses allocated by the court to that recovery.

(d) Funds appropriated to the Department of Crime Control and Public Safety for this program may be used to purchase and distribute rape evidence collection kits approved by the State Bureau of Investigation."

SECTION 3. G.S. 15B-10 reads as rewritten:

"**§ 15B-10. Awarding claims.**

(a) The Director shall decide the award of compensation for an initial claim or follow-up claim when the claim does not exceed ~~seven thousand five hundred dollars ($7,500)~~twelve thousand five hundred dollars ($12,500) and does not include future economic loss. The Director shall report all awards under this subsection to the Commission.

(b) The Director shall recommend the award of compensation for an initial claim or follow-up claim when the claim exceeds ~~seven thousand five hundred dollars ($7,500)~~twelve thousand five hundred dollars ($12,500) or involves future economic loss. The Commission shall decide the award of compensation for a claim based on a review of written evidence submitted to the Commission by the Director.

(c) In reporting a decision under subsection (a) or recommending a decision under subsection (b), the Director shall submit to the Commission documentation to establish the economic loss of the claimant by substantial evidence.

(d) The Director shall send each claimant a written statement of a decision made under subsection (a) or (b) that gives the reasons for the decision. A claimant who is dissatisfied with a decision may commence a contested case under Article 3 of Chapter 150B of the General Statutes."

SECTION 4. G.S. 15B-11 reads as rewritten:

"**§ 15B-11. Grounds for denial of claim or reduction of award.**

(a) An award of compensation shall be denied if:

(1) The claimant fails to file an application for an award within two years after the date of the criminally injurious conduct that caused the injury or death for which the claimant seeks the award;

(2) The economic loss is incurred after one year from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award, except in the case where the victim for whom compensation is sought was 10 years old or younger at the time the injury occurred. In that case an award of compensation will be denied if the economic loss is incurred after two years from the date of the criminally injurious conduct that caused the injury or death for which the victim seeks the award;

(3) The criminally injurious conduct was not reported to a law enforcement officer or agency within 72 hours of its occurrence, and there was no good cause for the delay;

(4) The award would benefit the offender or the offender's accomplice, unless a determination is made that the interests of justice require that an award be approved in a particular case;

(5) The criminally injurious conduct occurred while the victim was confined in any State, county, or city prison, correctional, youth services, or juvenile facility, or local confinement facility, or half-way house, group home, or similar facility; or

(6) The victim was participating in a felony at or about the time that the victim's injury occurred.

(b) A claim may be denied or an award of compensation may be reduced if:

(1) The victim was participating in a nontraffic misdemeanor at or about the time that the victim's injury occurred; or

(2) The claimant or a victim through whom the claimant claims engaged in contributory misconduct.

(b1) The Commission or Director, whichever has the authority to decide a claim under G.S. 15B-10, shall use its discretion in determining whether to deny a claim under ~~this subsection.~~subsection (b) of this section. In exercising its discretion, the Commission ~~may~~or Director shall consider whether any proximate cause exists between the injury and the misdemeanor or contributory ~~misconduct.~~misconduct, when applicable. The Director or Commission shall deny claims when it finds that there was contributory misconduct that is a proximate cause of becoming a victim. However, contributory misconduct that is not a proximate cause of becoming a victim shall not lead to an automatic denial of a claim."

SECTION 5. This act becomes effective July 1, 2009.

HOUSE BILL 1342:
RVAP/Ensure Grant Eligibility

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	May 4, 2009
Introduced by:	Reps. Bordsen, McLawhorn, Howard, Justus	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	First Edition		

SUMMARY: House Bill 1342 amends the Assistance Program for Victims of Rape and Sex Offenses with regard to the payment of forensic medical examinations, increases the threshold amount for a claim for an award of compensation that can be approved by the Director of Crime Victims Compensation Commission, and requires the Director or Commission to deny claims when it finds that there was contributory misconduct that is a proximate cause of becoming a victim.

BILL ANALYSIS:

Section 1(a) repeals portions of the victims assistance program established under G.S. 143B-480.2. Some of the provisions have been placed under G.S. 143B-480.1 in an amended form.

Currently, G.S. 143B-480.2 provides for limited assistance with certain expenses. **Section 1(b)** of the bill amends G.S. 143B-480.1 as follows:

- Subsection (b) of G.S. 143B-480.1. establishes that it is the policy of the State to arrange for victims to obtain forensic medical examination (exam) free of charge. The subsection further provides that when a forensic medical exam is conducted as a result of a sexual assault or attempted sexual assault that occurred in the State, the Program is required to pay for the cost of the exam and that a medical facility or medical professional that performs a forensic medical exam on the victim is not permitted to seek payment except from the Program.
- Subsection (c) further clarifies that a medical facility or medical professional that performs a forensic medical exam must accept payment made by the Assistance Program for Victims of Rape and Sex Offenses (Program) as payment in full and is not allowed to bill other entities (including the victim, their personal insurance, Medicaid, Medicare, or other sources). A medical facility or medical professional is not allowed to seek reimbursement from the Program after one year from the date of the exam.
- Subsection (d) requires the use of Sexual Assault Evidence Collection Kits by medical facilities and medical professionals performing forensic medical exams. This subsection also sets out the rates paid for services under the Program. These rates are the same as the rates that were in place under G.S. 143B-480.2(c) which is being repealed.
- Subsection (e) provides that bills must specify the category of services provided and payments will be made directly to the medical facility or medical professional.
- Subsection (f) directs the medical facility or medical professional performing an exam to encourage victims to submit an application for reimbursement of medical expenses beyond the exam to the Crime Victims Compensation Commission.
- Subsection (g) allows a victim to file a petition in the Superior Court of Wake County to seek a judicial review in the event of an adverse determination on a claim for assistance.
- Subsection (h) directs the Secretary of Crime Control and Public Safety to adopt rules encouraging the use of licensed registered nurses to conduct medical exams and procedures.
- Subsection (i) provides definitions for the following terms: "forensic medical examination", "SANE nurse", "sexual assault", and "Sexual Assault Evidence Collection Kit".

Section 2 of the bill makes a conforming change to G.S. 143B-480.3 regarding payment.

Section 3 amends G.S. 15B-10 to increase the threshold amount from $7,500 to $12,500 that the Director of the Crime Victims Compensation Commission, of the Department of Crime Control and Public Safety, can award for an initial or follow-up claim when the claim does not exceed that amount and does not include future economic loss. This section also makes a corresponding change to the threshold amount to provide that the Director shall make a recommendation to the Commission regarding the award of compensation for an initial or follow-up claim when the claim exceeds $12,500 or involves future economic loss.

Section 4 amends G.S. 15B-11 to require the Director or Commission to deny claims when it finds that there was contributory misconduct that is a proximate cause of becoming a victim, but specifies that contributory misconduct is not a proximate cause of becoming a victim and will not lead to an automatic claim denial.

EFFECTIVE DATE:

House Bill 1342 would become effective July 1, 2009.

H1342-SMSH-99(e1) v2

HOUSE BILL 543

Short Title:	No Penalty for Comm. Coll. Audit Exception.	(Public)
Sponsors:	Representatives Tarleton, Tolson, R. Warren, Wiley (Primary Sponsors); Dockham, Frye, and Starnes.	
Referred to:	Education, if favorable, State Government/State Personnel.	

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PENALTY FOR COMMUNITY COLLEGE AUDIT EXCEPTIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-5(m) reads as rewritten:

"(m) The State Board of Community Colleges shall maintain an education program auditing function that conducts an annual audit of each community college operating under the provisions of this Chapter. The purpose of the annual audit shall be to ensure that college programs and related fiscal operations comply with State law, State regulations, State Board policies, and System Office guidance. The State Board of Community Colleges shall require auditors of community college programs to use a statistically valid sample size in performing program audits of community colleges. All education program audit findings shall be forwarded to the college president, local college board of trustees, the State Board of Community Colleges, and the State Auditor. ~~The State Board shall assess a twenty-five percent (25%) fiscal penalty in addition to the audit exception on all audits of both dollars and student membership hours excepted when the audit exceptions result from nonprocessing errors.~~"

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

HOUSE BILL 543:
No Penalty for Comm. Coll. Audit Exception

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 5, 2009
Introduced by:	Reps. Tarleton, Tolson, R. Warren, Wiley	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: SUMMARY: House Bill 543 would remove a 25% fiscal penalty for community college audit exceptions.

CURRENT LAW: G.S. 115D-5(m) requires the State Board of Community Colleges (State Board) to maintain an education program auditing function that conducts an annual audit of each community college to ensure that college programs and related fiscal operations comply with State law. State regulations, State Board policies, and System Office guidance. The State Board requires auditors of community college programs to use a statistically valid sample size in performing program audits, and to forward all education program audit findings to the college president, local board of trustees, State Board, and State Auditor.

Currently, the State Board assesses a twenty-five percent (25%) fiscal penalty in addition to the audit exception on all audits of both dollars and student membership hours excepted when the audit exceptions result from non-processing errors.

BILL ANALYSIS: When audit errors are discovered community colleges are required to return 100% of any excess funds they received. They are then charged an additional 25% on top of what they have to return to the general fund. House Bill 543 would repeal the provision in G.S. 115D-5(m) that requires the State Board to assess the 25% fiscal penalty for community college audit exceptions.

EFFECTIVE DATE: The act would become effective when it becomes law.

BACKGROUND: The Community College System has a Program Audit Task Force (Task Force) comprised of a representative sample of community college presidents, chief financial officers, continuing education deans and system office staff which meets periodically to identify and work through program audit issues. The removal of the 25% penalty is a recommendation of this Task Force. The recommendation is endorsed by the Association of Community College Presidents and the State Board of Community Colleges Policy Committee.

Research Division *O. Walker Reagan, Director* *(919) 733-2578*

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 749
Committee Substitute Favorable 4/21/09

Short Title: Use of Cisterns in Construction/Renovation. (Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE STATE BUILDING CODE TO PERMIT THE USE OF CISTERNS TO PROVIDE WATER FOR FLUSHING TOILETS AND FOR OUTDOOR IRRIGATION IN THE CONSTRUCTION OR RENOVATION OF RESIDENTIAL OR COMMERCIAL BUILDINGS OR STRUCTURES AND TO PROHIBIT ANY STATE, COUNTY, OR LOCAL BUILDING CODE OR REGULATION FROM PROHIBITING THE USE OF CISTERNS FOR THESE USES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater

or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses. A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices [the following:]

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership

corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily.

The Code may include rules pertaining to the construction or renovation of residential or commercial buildings and structures that permit the use of cisterns to provide water for flushing toilets and for outdoor irrigation. No State, county, or local building code or regulation shall prohibit the use of cisterns to provide water for flushing toilets and for outdoor irrigation. As used in this subsection, 'cistern' means a storage tank that is watertight; has smooth interior surfaces and enclosed lids; is fabricated from nonreactive materials such as reinforced concrete, galvanized steel, or plastic; is designed to collect rainfall from a catchment area; may be installed indoors or outdoors; and is located underground, at ground level, or on elevated stands."

SECTION 2. This act is effective when it becomes law and applies to any cistern, as defined in G.S. 143-138, as amended by Section 1 of this act, installed on or after that date that is used to provide water for flushing toilets or for outdoor irrigation.

HOUSE BILL 749:
Use of Cisterns in Construction/Renovation

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 4, 2009
Introduced by:	Rep. K. Alexander	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	Second Edition		Committee Counsel

SUMMARY: House Bill 749 would authorize the State Building Code Council to permit the use of cisterns to provide water for flushing toilets and for outdoor irrigation in the construction or renovation of residential or commercial buildings or structures and prohibit any State, county, or local building code or regulation from banning the use of cisterns for these uses.

CURRENT LAW: S.L. 2008-143 amended Article 38 of Chapter 143 of the General Statutes to provide that it is the State policy that the reuse of treated wastewater or **reclaimed water** is a critical component of meeting the existing and future water supply needs of the State. The General Assembly also directed the Environmental Management Commission to adopt rules to

"(1) Identify acceptable uses of reclaimed water, including toilet flushing, fire protection, decorative water features, and landscape irrigation.

(2) Facilitate the permitting of reclaimed water systems.

(3) Establish standards for reclaimed water systems that are adequate to prevent the direct distribution of reclaimed water as potable water.[1]"

BILL ANALYSIS: House Bill 749 would amend G.S. 143-138(b) to authorize the State Building Code Council to include rules pertaining to the construction or renovation of residential or commercial buildings and structures that permit the use of cisterns to provide water for flushing toilets and outdoor irrigation. House Bill 749 would prohibit any State, county, or local building code or regulation from banning the use of cisterns to provide for the items listed above.

House Bill 749 defines a cistern as a storage tank that is watertight; has smooth interior surfaces and enclosed lids; is fabricated from nonreactive materials such as reinforced concrete, galvanized steel, or plastic; is designed to collect rainfall from a catchment area; may be installed indoors or outdoors; and is located underground, at ground level, or on elevated stands.

EFFECTIVE DATE: This act is effective when it becomes law and applies to any cistern installed on or after that date that is used to provide water for flushing toilets or for outdoor irrigation.

Mariah Matheson, Research Assistant to House Water Resources and Infrastructure, substantially contributed to this summary.

749-SMRO-65(e2) v1

[1] G.S. 143-355.5

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1168
PROPOSED COMMITTEE SUBSTITUTE H1168-PCS10919-RO-28

Short Title: Title Protection/Social Workers. (Public)

Sponsors:

Referred to:

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH TITLE PROTECTION FOR SOCIAL WORKERS AND TO AUTHORIZE ANY GOVERNMENTAL EMPLOYEE WHOSE POSITION IS DERIVED FROM THE OFFICE OF STATE PERSONNEL SOCIAL WORK SERIES TO USE THE TITLE 'SOCIAL WORKER.'

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90B-3(8) reads as rewritten:

"The following definitions apply in this Chapter:

...

(8) Social Worker. – A person ~~engaging in the practice of social work who is not certified or licensed under this Chapter as a Certified Social Worker, Certified Master Social Worker, Licensed Clinical Social Worker, or Certified Social Work Manager.~~certified, licensed, or provisionally licensed by this Chapter or otherwise exempt under G.S. 90B-10."

SECTION 2. G.S. 90B-10 is amended by adding the following new subsection to read:

"(c) Notwithstanding the requirements of G.S. 90B-16, any individual who is employed by an agency of a local or State governmental entity, and who is in a position holding the title of 'Social Worker' or any variation of the name, and whose position title is derived from the Office of State Personnel Social Work Series may use the title 'Social Worker' or any variation of the title."

SECTION 3. Chapter 90B of the General Statutes is amended by adding the following new section to read:

"**§ 90B-16. Title protection.**

(a) Except as provided in G.S. 90B-10, an individual who (i) is not certified, licensed, or provisionally licensed by this Chapter as a social worker, (ii) does not hold a bachelor's or master's degree in social work from a college or university having a social work program accredited or admitted to candidacy for accreditation by the Council of Social Work Education, or (iii) has not received a doctorate in social work, shall not use the title 'Social Worker' or any variation of the title.

(b) The Board is authorized to enforce title protection pursuant to this section in accordance with G.S. 90B-13.

(c) The Board shall adopt rules to implement this section."

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

HOUSE BILL 1168:
Title Protection/Social Workers

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary II	**Date:**	May 1, 2009
Introduced by:	Reps. Glazier, Dickson, England, Wainwright	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H1168-CSRO-28		

SUMMARY: House Bill 1168 amends the Social Worker Certification and Licensure Act to prohibit the unauthorized use of the title 'Social Worker' by individuals lacking the required academic credentials. The bill also creates an exemption from the prohibition for employees of local or State governmental entities.

CURRENT LAW:

Under current law, the NC Social Work Certification and Licensure Board issues certificates to "Certified Social Workers", Certified Master Social Workers", and "Certified Social Work Managers". The Board also licenses "Clinical Social Workers". The law provides that it is unlawful for a person who is not certified under the act to hold him or herself out to the public by any title that denotes that the person is certified. In addition, the law makes it unlawful for any person to engage in the practice of clinical social work without a license. The law, however, does not prohibit the practice of social work by a person who is not certified, except with regard to clinical social workers. The law further prevents any governmental entity from requiring certification under the act as a condition for obtaining or continuing employment.

BILL ANALYSIS:

House Bill 1168 amends the law to limit the use of the title "Social Worker" to those who meet one or more of the following standards:

- Must be certified or licensed or provisionally licensed under the act;
- Must hold a bachelor's or master's degree in social work from an accredited college or university; or
- Must have received a doctorate in social work.

The bill also creates an exemption from the title restriction for individuals employed by a local or State governmental agency and who are working in a position, the title of which is derived from the Office of State Personnel Social Work Series.

EFFECTIVE DATE: This act is effective when it becomes law.

H1168-SMRO-59(CSRO-28) v1

HOUSE BILL 1168

Short Title:	Title Protection/Social Workers.	(Public)
Sponsors:	Representatives Glazier, Dickson, England, Wainwright (Primary Sponsors); Harrison, Insko, Lucas, Mackey, and Wray.	
Referred to:	State Government/State Personnel, if favorable, Judiciary II.	

April 8, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH TITLE PROTECTION FOR SOCIAL WORKERS AND AUTHORIZE A REVIEW OF THE OFFICE OF STATE PERSONNEL SOCIAL WORK SERIES EVERY FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90B-3(8) reads as rewritten:

"The following definitions apply in this Chapter:

...

(8) Social Worker. – A person ~~engaging in the practice of social work who is not certified or licensed under this Chapter as a Certified Social Worker, Certified Master Social Worker, Licensed Clinical Social Worker, or Certified Social Work Manager.~~certified, licensed, or provisionally licensed by this Chapter or otherwise exempt under G.S. 90B-10."

SECTION 2. G.S. 90B-10 is amended by adding the following new subsection to read:

"(c) Except as provided for a person engaging in clinical social work practice under this Chapter, the following may use the title 'Social Worker':

(1) Any individual practicing social work under this Chapter who is employed by an agency of a local or State governmental entity, who is in a position holding the title of 'Social Worker' or any variation of the name, and whose position title is derived from the Office of State Personnel Social Work Series.

(2) Any individual who meets the academic requirements for title protection under G.S. 90B-16."

SECTION 3. Chapter 90B of the General Statutes is amended by adding the following new section to read:

"**§ 90B-16. Title protection.**

(a) An individual who (i) is not certified, licensed, or provisionally licensed by this Chapter as a social worker, (ii) does not hold a bachelor's or master's degree in social work from a college or university having a social work program accredited or admitted to candidacy for accreditation by the Council of Social Work Education, or (iii) has not received a doctorate in social work, shall not use the title 'Social Worker' or any variation of the title.

(b) The Board is authorized to enforce title protection pursuant to this section in accordance with G.S. 90B-13.

(c) The Board is authorized to adopt rules to implement this section."

SECTION 4. Review of State Personnel Social Work Series. – The Office of State Personnel shall conduct a review of the State Personnel Social Work Series every four years. The review shall consist of an examination of the job title, duties, salary structure, supervision, and requirements of classifications within the State Personnel Social Work Series. The following entities shall participate in the review:

(1) The North Carolina Association of County Directors of Social Services.
(2) The National Association of Social Workers – North Carolina Chapter.
(3) The North Carolina Social Work Certification and Licensure Board.
(4) The North Carolina Society of Clinical Social Work.
(5) The North Carolina Society of Social Work Leadership in Healthcare.
(6) The Public Health Social Work Continuing Education and Training Advisory Committee.
(7) The North Carolina School Social Work Association.
(8) A representative of a school of social work bachelor's degree program, as determined by the National Association of Social Workers – North Carolina Chapter Board of Directors.
(9) A representative of a school of social work master's degree program, as determined by the National Association of Social Workers – North Carolina Chapter Board of Directors.
(10) A representative from the Office of State Personnel.

After conducting the review, the Office of State Personnel shall submit a report to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of the Department of Health and Human Services by January 15 of the year following the review.

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

HOUSE BILL 1129

Short Title:	Clarify Silver Alert-All Ages.	(Public)
Sponsors:	Representatives Mobley, Parmon, Womble, Burris-Floyd (Primary Sponsors); Adams, K. Alexander, M. Alexander, Allen, Bryant, Farmer-Butterfield, Fisher, Glazier, Hall, Harrison, Holliman, Hurley, Insko, Jones, Lucas, Luebke, Martin, Pierce, Rapp, Ross, Samuelson, Stevens, Tarleton, Weiss, and Wray.	
Referred to:	Aging, if favorable, State Government/State Personnel.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY A SILVER ALERT MAY BE ISSUED FOR A PERSON OF ANY AGE WHO IS BELIEVED TO BE SUFFERING FROM DEMENTIA OR OTHER COGNITIVE IMPAIRMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-499.8 reads as rewritten:

"**§ 143B-499.8. North Carolina Silver Alert System established.**

(a) There is established within the North Carolina Center for Missing Persons the Silver Alert System. The purpose of the Silver Alert System is to provide a statewide system for the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or other cognitive impairment.

(b) If the Center receives a report that involves a missing person who is believed to be suffering from dementia or other cognitive impairment, for the protection of the missing person from potential abuse or other physical harm, neglect, or exploitation, the Center shall issue an alert providing for rapid dissemination of information statewide regarding the missing person. The Center shall make every effort to disseminate the information as quickly as possible when the person's status as missing has been reported to a law enforcement agency.

(c) The Center shall adopt guidelines and develop procedures for issuing an alert for missing persons believed to be suffering from dementia or other cognitive impairment and shall provide education and training to encourage radio and television broadcasters to participate in the alert. The guidelines and procedures shall ensure that specific health information about the missing person is not made public through the alert or otherwise.

(d) The Center shall consult with the Department of Transportation and develop a procedure for the use of overhead permanent changeable message signs to provide information on the missing ~~adult~~person meeting the criteria of this section when information is available that would enable motorists to assist in the recovery of the missing person. The Center and the Department of Transportation shall develop guidelines for the content, length, and frequency of any message to be placed on an overhead permanent changeable message sign."

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

HOUSE BILL 1129:
Clarify Silver Alert-All Ages

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 4, 2009
Introduced by:	Reps. Mobley, Parmon, Womble, Burris-Floyd	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	First Edition		

SUMMARY: House Bill 1129 changes to word "adult" to "person" in order to conform current law with the intent of S.L. 2008-83.

CURRENT LAW:

S.L. 2007-469 established the Silver Alert System, within the North Carolina Center for Missing Persons, to provide for the rapid dissemination of information regarding a missing person who is believed to be suffering from dementia or other cognitive impairment. When the Center receives a report that involves a missing person who is believed to be suffering from dementia or other cognitive impairment, for the protection of the missing person from potential abuse or other physical harm, neglect, or exploitation, the Center is required to issue an alert. The Center is required to disseminate the information as quickly as possible when the missing person is 18 years of age or older and the person's status as missing has been reported to a law enforcement agency.

.L. 2008-83 authorized the use of a Silver Alert for a person of any age that is believed to be suffering om dementia or other cognitive impairment and removed language pertaining to the missing person being 18 years of age or older.

BILL ANALYSIS:

House Bill 1129 amends G.S. 143B-499.8(d) to change the word "adult" to person. S.L. 2008-83 amended the Silver Alert System law to authorize a Silver Alert for a person of any age believed to be suffering from dementia or other cognitive impairment, but neglected to replace the word "adult" G.S. 143B-499.8(d).

House Bill 1129 would become effective when it becomes law.

BACKGROUND:

In the first quarter (January –March) of 2009, 67 Silver Alerts were issued and 65 missing persons have been recovered unharmed. Colorado, Georgia, Missouri, Oklahoma, Texas, and Virginia also have Silver Alert Programs in place.

S.L. 2003-191 established the Amber Alert system, and G.S. 143B-499.7 provides the following criteria for issuing an Amber Alert:

- The child is 17 years of age or younger;
- The abduction is not known or suspected to be by a parent of the child, unless the child's life is suspected to be in danger of injury or death;
- The child is believed:
  - To have been abducted, or
  - To be in danger of injury or death;
- The child is not a runaway or voluntarily missing; and
- The abduction has been reported to and investigated by a law enforcement agency.

If the abduction of the child is known or suspected to be by a parent of the child, the Center, in its discretion, may disseminate information through the AMBER Alert System if the child is believed to be in danger of injury or death.

Sara Kamprath contributed to this summary.
H1129-SMSH-97(e1) v2

committee substitute #2

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 912
Committee Substitute Favorable 4/30/09
PROPOSED COMMITTEE SUBSTITUTE H912-PCS30348-SH-41

Short Title: Encourage Use of Military Veteran Contractors. (Public)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE STATE AND LOCAL GOVERNMENT TO USE MILITARY VETERAN CONTRACTORS.

The General Assembly of North Carolina enacts:

PART I. CREATE MILITARY VETERAN BUSINESS PARTICIPATION GOALS FOR PUBLIC CONTRACTS

SECTION 1.(a) G.S. 143-48 reads as rewritten:

"**§ 143-48. State policy; cooperation in promoting the use of small contractors, minority contractors, physically handicapped ~~contractors, and women contractors~~;contractors, women contractors, and military veteran contractors; purpose; required annual reports.**

(a) Policy. – It is the policy of this State to encourage and promote the use of small contractors, minority contractors, physically handicapped ~~contractors, and women contractors~~contractors, women contractors, and military veteran contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small contractors, minority contractors, physically handicapped ~~contractors, and women contractors~~contractors, women contractors, and military veteran contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration.

(b) Reporting. – Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and services, every local school administrative unit, and every private, nonprofit corporation other than an institution of higher education or a hospital that receives an appropriation of five hundred thousand dollars ($500,000) or more during a fiscal year from the General Assembly shall report to the ~~department~~ Department of Administration annually on what percentage of its contract purchases of goods and services, through term contracts and open-market contracts, were from minority-owned businesses, what percentage from female-owned businesses, what percentage from disabled-owned businesses, what percentage from disabled business ~~enterprises and~~enterprises, what percentage from nonprofit work centers for the blind and the severely

~~disabled.~~disabled, and what percentage from military veteran contractors. The same governmental entities shall include in their reports what percentages of the contract bids for such purchases were from such businesses. The Department of Administration shall provide instructions to the reporting entities concerning the manner of reporting and the definitions of the businesses referred to in this act, provided that, for the purposes of this act:

(1) Except as provided in subdivision (1a) of this subsection, a business in one of the categories above means one:
  a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons in the category; and
  b. Of which the management and daily business operations are controlled by one or more persons in the category who own it.

(1a) A "disabled business enterprise" means a nonprofit entity whose main purpose is to provide ongoing habilitation, rehabilitation, independent living, and competitive employment for persons who are handicapped through supported employment sites or business operated to provide training and employment and competitive wages.

(1b) A "nonprofit work center for the blind and the severely disabled" means an agency:
  a. Organized under the laws of the United States or this State, operated in the interest of the blind and the severely disabled, the net income of which agency does not inure in whole or in part to the benefit of any shareholder or other individual;
  b. In compliance with any applicable health and safety standard prescribed by the United States Secretary of Labor; and
  c. In the production of all commodities or provision of services, employs during the current fiscal year severely handicapped individuals for (i) a minimum of seventy-five percent (75%) of the hours of direct labor required for the production of commodities or provision of services, or (ii) in accordance with the percentage of direct labor required under the terms and conditions of Public Law 92-28 (41 U.S.C. § 46, et seq.) for the production of commodities or provision of services, whichever is less.

(2) A female or a disabled person is not a minority, unless the female or disabled person is also a member of one of the minority groups described in G.S. 143-128(2)a. through d.

(3) A disabled person means a person with a handicapping condition as defined in G.S. 168-1 or G.S. 168A-3.

(4) A veteran contractor is a contractor that is a military veteran or a veteran business, as those terms are defined in G.S. 143-128.5(f).

(c) The Department of Administration shall compile information on small and medium-sized business participation in State contracts subject to this Article and report the information as provided in subsection (d) of this section. The report shall analyze (i) contract awards by business size category, (ii) historical trends in small and medium-sized business participation in these contracts, and (iii) to the extent feasible, participation by small and medium-sized businesses in the State procurement process as dealers, service companies, and other indirect forms of participation. The Department may require reports on contracting by business size in the same manner as reports are required under subsection (b) of this section.

(d) The Department of Administration shall collect and compile the data described in this section and report it annually to the General Assembly.

(d1) Repealed by Session Laws 2007-392, s. 1, effective October 1, 2007.

(e) In seeking contracts with the State, a disabled business enterprise must provide assurances to the Secretary of Administration that the payments that would be received from the State under these contracts are directed to the training and employment of and payment of competitive wages to handicapped employees."

SECTION 1.(b) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-128.5. Military veteran business participation goals.**

(a) The State shall have a verifiable ten percent (10%) goal for participation by military veteran businesses in the total value of work for each State building project, including building projects done by a private entity on a facility to be leased or purchased by the State. A local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, including a building project done by a private entity on a facility to be leased or purchased by the local government unit, where the project cost is one hundred thousand dollars ($100,000) or more, shall have a verifiable ten percent (10%) goal for participation by veteran businesses in the total value of the work.

Each city, county, or other local public entity shall adopt, after a notice and public hearing, an appropriate verifiable percentage goal for participation by veteran businesses in the total value of work for building projects.

Each entity required to have verifiable percentage goals under this subsection shall make a good faith effort to recruit veteran participation in accordance with this section or G.S. 143-131(c), as applicable.

(b) A public entity shall establish prior to solicitation of bids the good faith efforts that it will take to make it feasible for veteran businesses to submit successful bids or proposals for the contracts for building projects. Public entities shall make good faith efforts as set forth in subsection (e) of this section. Public entities shall require contractors to make good faith efforts to meet the veteran business participation goal established in subsection (a) of this section. Each first-tier subcontractor on a construction management at-risk project shall comply with the requirements applicable to contractors under this subsection.

(c) Each bidder, which shall mean first-tier subcontractor for construction manager at-risk projects for purposes of this subsection, on a project bid under any of the methods authorized under G.S. 143-128(a1) shall identify on its bid the veteran businesses that it will use on the project and an affidavit listing the good faith efforts it has made pursuant to subsection (b) of this section and the total dollar value of the bid that will be performed by the veteran businesses. A contractor, including a first-tier subcontractor on a construction manager at-risk project, that performs all of the work under a contract with its own workforce may submit an affidavit to that effect in lieu of the affidavit otherwise required under this subsection. The apparent lowest responsible, responsive bidder shall also file the following:

(1) Within the time specified in the bid documents, either:

a. An affidavit that includes a description of the portion of work to be executed by veteran businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. An affidavit under this sub-subdivision shall give rise to a presumption that the bidder has made the required good faith effort; or

b. Documentation of its good faith effort to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of veteran businesses for participation in the contract.

(2) Within 30 days after award of the contract, a list of all identified subcontractors that the contractor will use on the project.

Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the bid.

(d) No subcontractor who is identified and listed pursuant to subsection (c) of this section may be replaced with a different subcontractor except:

(1) If the subcontractor's bid is later determined by the contractor or construction manager at risk to be nonresponsible or nonresponsive, or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or

(2) With the approval of the public entity for good cause.

Good faith efforts as set forth in G.S. 143-131(c) shall apply to the selection of a substitute subcontractor. Prior to substituting a subcontractor, the contractor shall identify the substitute subcontractor and inform the public entity of its good faith efforts pursuant to G.S. 143-131(c).

(e) Before awarding a contract, a public entity shall do the following:

(1) Develop and implement a veteran business participation outreach plan to identify veteran businesses that can perform public building projects and implement outreach efforts to encourage veteran business participation in these projects to include education, recruitment, and interaction between veteran businesses and nonveteran businesses.

(2) Attend the scheduled prebid conference.

(3) Utilize other media, as appropriate, likely to inform potential veteran businesses of the bid being sought.

(f) As used in this section:

(1) The term 'veteran business' means a business:

a. In which at least fifty-one percent (51%) is owned by one or more military veterans, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more military veterans; and

b. Of which the management and daily business operations are controlled by one or more of the military veterans who own it.

(2) The term 'military veteran' means a person who is a citizen or lawful permanent resident of the United States and who served in the armed forces of the United States or the North Carolina National Guard, served a minimum of 180 days, and who was discharged or released therefrom with an honorable discharge or a general discharge under honorable conditions.

(g) Nothing in this section shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from veteran business contractors or veteran business subcontractors who do not submit the lowest responsible, responsive bid or bids.

(h) Notwithstanding G.S. 132-3 and G.S. 121-5, all public records created pursuant to this section shall be maintained by the public entity for a period of not less than three years from the date of the completion of the building project.

(i) Except as provided in subsections (a), (f), (g), and (h) of this section, this section shall only apply to building projects costing three hundred thousand dollars ($300,000) or more. This section shall not apply to the purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work that must be performed at the construction site.

(j) Each public or private entity that is subject to this section shall report annually to the Department of Administration on its compliance with the requirements of this section. The Department of Administration shall provide instructions to the reporting entities concerning the manner and date of reporting. The Secretary of the Department of Administration shall make

reports annually to the Joint Legislative Commission on Governmental Operations on information reported pursuant to this subsection.

(k) If the death of a military veteran causes a business to be less than fifty-one percent (51%) owned by one or more military veterans, the surviving spouse of the military veteran who acquires ownership rights in the business shall, for the period set forth in this subsection, be treated as if the surviving spouse were the veteran for the purpose of maintaining the status of the business as a veteran business. This period shall begin on the date the veteran dies and end on the earliest of the following:

(1) The date on which the surviving spouse remarries.

(2) The date on which the surviving spouse relinquishes an ownership interest in the business.

(3) The date that is 10 years after the veteran's death."

SECTION 1.(c) G.S. 143-131 is amended by adding a new subsection to read:

"(c) All public entities shall solicit military veteran participation in contracts for the erection, construction, alteration, or repair of any building awarded pursuant to this section. The public entity shall maintain a record of contractors solicited and shall document efforts to recruit military veteran business participation in those contracts. Nothing in this section shall be construed to require formal advertisement of bids. All data, including the type of project, total dollar value of the project, dollar value of military veteran business participation on each project, and documentation of efforts to recruit military veteran participation shall be reported to the Department of Administration, Division of Veterans Affairs, upon the completion of the project."

PART II. CONFORMING CHANGES

SECTION 2.(a) G.S. 18C-151(a)(4) reads as rewritten:

"(4) The Commission has complied with the minority participation goals of G.S. 143-128.2 and ~~G.S. 143-128.3.~~G.S. 143-128.3, and with the veteran participation goals of G.S. 143-128.5."

SECTION 2.(b) G.S. 113-315.36 reads as rewritten:

"**§ 113-315.36. Building contracts.**

(a) The following general laws, to the extent provided below, do not apply to the North Carolina Seafood Industrial Park Authority:

(1) Repealed by Session Laws 1999-368, s. 1.

(2) Except for ~~G.S. 143-128.2,~~G.S. 143-128.2 and G.S. 143-128.5, Article 8 of Chapter 143 of the General Statutes does not apply to public building contracts of the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars ($250,000). With respect to a contract that is exempted from certain provisions of Article 8 under this subdivision, the powers and duties set out in Article 8 shall be exercised by the Authority, and the Secretary of Administration and other State officers, employees, or agencies shall have no duties or responsibilities concerning the contract.

(3) G.S. 143-341(3) does not apply to plans and specifications for construction or renovation authorized by the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars ($250,000).

(b) Notwithstanding the other provisions of this section, the services of the Department of Administration may be made available to the Authority, when requested by the Authority, with regard to matters governed by Article 8 of Chapter 143 of the General Statutes and G.S. 143-341(3). The Authority shall report quarterly to the Joint Legislative Commission on

Governmental Operations on any building contract to which this exemption is applied. The quarterly report required by this subsection shall specifically include information regarding the Authority's compliance with the provisions of ~~G.S. 143-128.2.~~G.S. 143-128.2 and G.S. 143-128.5."

SECTION 2.(c) G.S. 116-31.11(f) is amended by adding a new subdivision to read:

"(5) Whether the person or business awarded a contract under this section meets the definition of 'veteran business' or 'military veteran' as defined in G.S. 143-128.5(f)."

SECTION 2.(d) G.S. 116D-4 reads as rewritten:

"**§ 116D-4. ~~Minority and~~Minority, veteran, and historically underutilized business participation.**

(a) Minority Business and Veteran Business Participation. – The goals set by G.S. 143-128 and G.S. 143-128.5 for participation in projects by minority and veteran businesses apply to projects funded by the proceeds of bonds or notes issued under this section. The following State agencies shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority and veteran businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of university improvement general obligation bonds and notes and special obligation bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Community Colleges System Office shall monitor compliance with regard to projects funded by the proceeds of community college general obligation bonds and notes.

(b) Participation in Providing Professional Services. – The Department of State Treasurer shall provide contracting opportunities for historically underutilized businesses in providing professional services in connection with the issuance of bonds and notes authorized by this section. As used in this subsection, the term "historically underutilized business" means a business described in G.S. 143-48. The Department of State Treasurer shall strive to increase the amount of legal, financial, and other professional services acquired by it from historically underutilized businesses. With the assistance of the Office for Historically Underutilized Businesses in the Department of Administration, the Department of State Treasurer shall set objectives for contracting with these businesses, identify and eliminate barriers or constraints that may restrict these businesses from contracting with the Department, and develop a plan for meeting its objectives. The Department of State Treasurer shall report quarterly to the Office for Historically Underutilized Businesses on its progress in carrying out the requirements of this subsection."

SECTION 2.(e) G.S. 143-128.1 reads as rewritten:

"**§ 143-128.1. Construction management at risk contracts.**

(a) For purposes of this section and G.S. 143-64.31:

(1) "Construction management services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

(2) "Construction management at risk services" means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.

(3) "Construction manager at risk" means a person, corporation, or entity that provides construction management at risk services.

(4) "First-tier subcontractor" means a subcontractor who contracts directly with the construction manager at risk.

(b) The construction manager at risk shall be selected in accordance with Article 3D of this Chapter. Design services for a project shall be performed by a licensed architect or engineer. The public owner shall contract directly with the architect or engineer.

(c) The construction manager at risk shall contract directly with the public entity for all construction; shall publicly advertise as prescribed in G.S. 143-129; and shall prequalify and accept bids from first-tier subcontractors for all construction work under this section. The prequalification criteria shall be determined by the public entity and the construction manager at risk to address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by the public entity. The public entity shall require the construction manager at risk to submit its plan for compliance with G.S. 143-128.2 and G.S. 143-128.5 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A construction manager at risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to ~~G.S. 143-128.2.~~G.S. 143-128.2 and military veteran businesses for participation in contracts pursuant to G.S. 143-128.5. A construction manager at risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the work, the lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) the public entity approves of the construction manager at risk's performance of the work. All bids shall be opened publicly, and once they are opened, shall be public records under Chapter 132 of the General Statutes. The construction manager at risk shall act as the fiduciary of the public entity in handling and opening bids. The construction manager at risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with ~~G.S. 143-128.2,~~G.S. 143-128.2 and G.S. 143-128.5, and other factors deemed appropriate by the public entity and advertised as part of the bid solicitation. The public entity may require the selection of a different first-tier subcontractor for any portion of the work, consistent with this section, provided that the construction manager at risk is compensated for any additional cost incurred.

When contracts are awarded pursuant to this section, the public entity shall provide for a dispute resolution procedure as provided in G.S. 143-128(f1).

(d) The construction manager at risk shall provide a performance and payment bond to the public entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes."

SECTION 2.(f) G.S. 143-129.4 reads as rewritten:

"**§ 143-129.4. Guaranteed energy savings contracts.**

The solicitation and evaluation of proposals for guaranteed energy savings contracts, as defined in Part 2 of Article 3B of this Chapter, and the letting of contracts for these proposals are not governed by this Article but instead are governed by the provisions of that Part; except that guaranteed energy savings contracts are subject to the requirements of ~~G.S. 143-128.2~~G.S. 143-128.2, 143-128.5, and ~~G.S.~~ 143-135.3."

SECTION 2.(g) G.S. 143-135.5(a) and the catch line of G.S. 143-135 read as rewritten:

"**§ 143-135.5. State policy; cooperation in promoting the use of small, minority, physically ~~handicapped and women~~handicapped, women, and military veteran contractors; purpose.**

(a) It is the policy of this State to encourage and promote the use of small, minority, physically ~~handicapped and women~~handicapped, women, and military veteran contractors in State construction projects. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage and promote the use of small, minority, physically ~~handicapped and women~~handicapped, women, and military veteran contractors in achieving the purpose of this Article, which is the effective and economical construction of public buildings."

SECTION 2.(h) G.S. 143-135.26(9)b1. reads as rewritten:

"b1. The entity includes in its bid or proposal requirements that the contractor will file a plan for making a good faith effort to reach the minority participation goal set out in ~~G.S. 143-128.2.~~G.S. 143-128.2 and the veteran business participation goal set out in G.S. 143-128.5."

SECTION 2.(i) G.S. 147-33.97 reads as rewritten:

"**§ 147-33.97. Information technology procurement policy; reporting requirements.**

(a) Policy. – In order to further the policy of the State to encourage and promote the use of small, minority, physically ~~handicapped, and women~~handicapped, women, and veteran contractors in State purchasing of goods and services, all State agencies covered by this Part shall cooperate with the Office in efforts to encourage the use of small, minority, physically ~~handicapped, and women~~ handicapped, women, and veteran contractors in achieving the purpose of this Part, which is to provide for the effective and economical acquisition, management, and disposition of information technology.

(a1) A vendor submitting a bid shall disclose in a statement, provided contemporaneously with the bid, where services will be performed under the contract sought, including any subcontracts and whether any services under that contract, including any subcontracts, are anticipated to be performed outside the United States. Nothing in this section is intended to contravene any existing treaty, law, agreement, or regulation of the United States.

(a2) The State Chief Information Officer shall retain the statements required by subsection (a1) of this section regardless of the State entity that awards the contract and shall report annually to the Secretary of Administration on the number of contracts which are anticipated to be performed outside the United States.

(b) Reporting. – Every State agency that makes a direct purchase of information technology using the services of the Office shall report directly to the Department of Administration all information required by G.S. 143-48(b).

(c) The Department of Administration shall collect and compile the data described in this section and report it annually to the Office."

SECTION 2.(j) G.S. 148-37.2(j) reads as rewritten:

"(j) Minority Business Participation. – G.S. 143-128.2 ~~applies~~ and G.S. 143-128.5 apply to the Projects authorized in this section."

SECTION 3. This act is effective when it becomes law and applies to bids solicited on or after that date.

HOUSE BILL 912:
Encourage Use of Military Veteran Contractors

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 4, 2009
Introduced by:	Reps. Killian, Sutton, Parmon, McElraft	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	Second Edition		

SUMMARY: ***House Bill 912 amends the State purchase and contract law to encourage the use of military veteran contractors and requires the State to have a verifiable 10% goal for participation by military veteran businesses in the total value of work for each State building project, including building projects done by a private entity on a facility to be leased or purchased by the State.***

CURRENT LAW:

State law sets forth a policy on encouragement and promotion of the following entities with regard to State purchasing: small contractors, minority contractors, and physically handicapped contractors. Business participation goals for State building projects are established for minority businesses.

BILL ANALYSIS:

PART I. CREATE MILITARY VETERAN BUSINESS PARTICIPATION GOALS FOR PUBLIC CONTRACTS of House Bill 912 does the following:

ection 1(a) adds military veteran contractors to G.S. 143-48 which provides the state policy of ıcouraging and promoting the use of small contractors, minority contractors, physically handicapped contractors, and women contractors.

Section 1(b) creates a new G.S. 143-128.5, regarding military veteran business participation goals. This section provides for the following:

- Requires the State to have a verifiable 10% goal for participation by a military veteran business in the total value of work for each State building project, including building projects by a private entity on a facility to be leased or purchased by the State. The 10% goal is also required for a local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, by a private entity on a facility to be leased or purchased by the local government unit where the project cost is $100,000 or more. After a notice and public hearing, cities, counties, or other local public entities must adopt an appropriate verifiable percentage goal for participation by veteran businesses in the total value of work for building projects.
- Provides the following definitions:
    - "Veteran business" is a business
        - In which at least 51% is owned by one or more military veterans, or in the case of a corporation, in which at least 51% of the stock is owned by one or more military veterans; and
        - Of which the management and daily business operations are controlled by one or more of one or more of military veterans who own it.
    - "Military Veteran" means a person who is a citizen or lawful permanent resident of the United States and who served in the armed forces of the United States or the North Carolina National Guard, served a minimum of 180 days, and ho was discharged or released therefrom under conditions other than dishonorable.

- Requires public entities to make good faith efforts meet the veteran business participation goals established in G.S. 143-128.5(a) and to develop outreach plans and other means to inform potential veteran businesses of the bids being sought as provided in G.S. 143-128.5(e).
- Outlines the process for identification of a military veteran business.
- Provides that except for the goals in G.S. 143-128.5(a), the terms in G.S. 143-128.5(f), language allowing purchases from lowest bidder G.S. 143-128.5(g), and public record requirements in G.S. 143-128.5(h), the requirements of G.S. 143-128.5 apply only to building projects costing $300,000 or more. G.S. 143-128.5 does not apply to the purchase and erection of prefabricated or relocatable buildings or portions thereof.
- Specifies reporting requirements.

Section 1(c) amends G.S. 143-131 to require solicitation of military veteran participation in informal bids.

PART II makes conforming changes to other statutes

EFFECTIVE DATE: House Bill 912 would become effective when it becomes law and applies to bids solicited on or after that date.

Hal Pell contributed to this summary.
H912-SMSH-100(e2) v2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 912

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

H912-ARK-3 [v.1]

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

Date _____,2009

Representative _____

moves to amend the bill on page 4, lines ~~33~~ 31 and ~~34~~ 32 by rewriting the lines to read:

"minimum of 180 days, and who was discharged or released therefrom with an Honorable Discharge or a General Discharge under honorable conditions."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

committee substitute #1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 912
Committee Substitute Favorable 4/30/09
PROPOSED COMMITTEE SUBSTITUTE H912-PCS30348-SH-41

Short Title: Encourage Use of Military Veteran Contractors. (Public)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE STATE AND LOCAL GOVERNMENT TO USE MILITARY VETERAN CONTRACTORS.

The General Assembly of North Carolina enacts:

PART I. CREATE MILITARY VETERAN BUSINESS PARTICIPATION GOALS FOR PUBLIC CONTRACTS

SECTION 1.(a) G.S. 143-48 reads as rewritten:

"**§ 143-48. State policy; cooperation in promoting the use of small contractors, minority contractors, physically handicapped ~~contractors, and women contractors~~;contractors, women contractors, and military veteran contractors; purpose; required annual reports.**

(a) Policy. – It is the policy of this State to encourage and promote the use of small contractors, minority contractors, physically handicapped ~~contractors, and women contractors~~contractors, women contractors, and military veteran contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small contractors, minority contractors, physically handicapped ~~contractors, and women contractors~~contractors, women contractors, and military veteran contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration.

(b) Reporting. – Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and services, every local school administrative unit, and every private, nonprofit corporation other than an institution of higher education or a hospital that receives an appropriation of five hundred thousand dollars ($500,000) or more during a fiscal year from the General Assembly shall report to the ~~department~~ Department of Administration annually on what percentage of its contract purchases of goods and services, through term contracts and open-market contracts, were from minority-owned businesses, what percentage from female-owned businesses, what percentage from disabled-owned businesses, what percentage from disabled business ~~enterprises and~~enterprises, what percentage from nonprofit work centers for the blind and the severely

~~disabled.~~disabled, and what percentage from military veteran contractors. The same governmental entities shall include in their reports what percentages of the contract bids for such purchases were from such businesses. The Department of Administration shall provide instructions to the reporting entities concerning the manner of reporting and the definitions of the businesses referred to in this act, provided that, for the purposes of this act:

(1) Except as provided in subdivision (1a) of this subsection, a business in one of the categories above means one:
  a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons in the category; and
  b. Of which the management and daily business operations are controlled by one or more persons in the category who own it.

(1a) A "disabled business enterprise" means a nonprofit entity whose main purpose is to provide ongoing habilitation, rehabilitation, independent living, and competitive employment for persons who are handicapped through supported employment sites or business operated to provide training and employment and competitive wages.

(1b) A "nonprofit work center for the blind and the severely disabled" means an agency:
  a. Organized under the laws of the United States or this State, operated in the interest of the blind and the severely disabled, the net income of which agency does not inure in whole or in part to the benefit of any shareholder or other individual;
  b. In compliance with any applicable health and safety standard prescribed by the United States Secretary of Labor; and
  c. In the production of all commodities or provision of services, employs during the current fiscal year severely handicapped individuals for (i) a minimum of seventy-five percent (75%) of the hours of direct labor required for the production of commodities or provision of services, or (ii) in accordance with the percentage of direct labor required under the terms and conditions of Public Law 92-28 (41 U.S.C. § 46, et seq.) for the production of commodities or provision of services, whichever is less.

(2) A female or a disabled person is not a minority, unless the female or disabled person is also a member of one of the minority groups described in G.S. 143-128(2)a. through d.

(3) A disabled person means a person with a handicapping condition as defined in G.S. 168-1 or G.S. 168A-3.

(4) A veteran contractor is a contractor that is a military veteran or a veteran business, as those terms are defined in G.S. 143-128.5(f).

(c) The Department of Administration shall compile information on small and medium-sized business participation in State contracts subject to this Article and report the information as provided in subsection (d) of this section. The report shall analyze (i) contract awards by business size category, (ii) historical trends in small and medium-sized business participation in these contracts, and (iii) to the extent feasible, participation by small and medium-sized businesses in the State procurement process as dealers, service companies, and other indirect forms of participation. The Department may require reports on contracting by business size in the same manner as reports are required under subsection (b) of this section.

(d) The Department of Administration shall collect and compile the data described in this section and report it annually to the General Assembly.

(d1) Repealed by Session Laws 2007-392, s. 1, effective October 1, 2007.

(e) In seeking contracts with the State, a disabled business enterprise must provide assurances to the Secretary of Administration that the payments that would be received from the State under these contracts are directed to the training and employment of and payment of competitive wages to handicapped employees."

SECTION 1.(b) Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-128.5. Military veteran business participation goals.**

(a) The State shall have a verifiable ten percent (10%) goal for participation by military veteran businesses in the total value of work for each State building project, including building projects done by a private entity on a facility to be leased or purchased by the State. A local government unit or other public or private entity that receives State appropriations for a building project or other State grant funds for a building project, including a building project done by a private entity on a facility to be leased or purchased by the local government unit, where the project cost is one hundred thousand dollars ($100,000) or more, shall have a verifiable ten percent (10%) goal for participation by veteran businesses in the total value of the work.

Each city, county, or other local public entity shall adopt, after a notice and public hearing, an appropriate verifiable percentage goal for participation by veteran businesses in the total value of work for building projects.

Each entity required to have verifiable percentage goals under this subsection shall make a good faith effort to recruit veteran participation in accordance with this section or G.S. 143-131(c), as applicable.

(b) A public entity shall establish prior to solicitation of bids the good faith efforts that it will take to make it feasible for veteran businesses to submit successful bids or proposals for the contracts for building projects. Public entities shall make good faith efforts as set forth in subsection (e) of this section. Public entities shall require contractors to make good faith efforts to meet the veteran business participation goal established in subsection (a) of this section. Each first-tier subcontractor on a construction management at-risk project shall comply with the requirements applicable to contractors under this subsection.

(c) Each bidder, which shall mean first-tier subcontractor for construction manager at-risk projects for purposes of this subsection, on a project bid under any of the methods authorized under G.S. 143-128(a1) shall identify on its bid the veteran businesses that it will use on the project and an affidavit listing the good faith efforts it has made pursuant to subsection (b) of this section and the total dollar value of the bid that will be performed by the veteran businesses. A contractor, including a first-tier subcontractor on a construction manager at-risk project, that performs all of the work under a contract with its own workforce may submit an affidavit to that effect in lieu of the affidavit otherwise required under this subsection. The apparent lowest responsible, responsive bidder shall also file the following:

(1) Within the time specified in the bid documents, either:

a. An affidavit that includes a description of the portion of work to be executed by veteran businesses, expressed as a percentage of the total contract price, which is equal to or more than the applicable goal. An affidavit under this sub-subdivision shall give rise to a presumption that the bidder has made the required good faith effort; or

b. Documentation of its good faith effort to meet the goal. The documentation must include evidence of all good faith efforts that were implemented, including any advertisements, solicitations, and evidence of other specific actions demonstrating recruitment and selection of veteran businesses for participation in the contract.

(2) Within 30 days after award of the contract, a list of all identified subcontractors that the contractor will use on the project.

Failure to file a required affidavit or documentation that demonstrates that the contractor made the required good faith effort is grounds for rejection of the bid.

(d) No subcontractor who is identified and listed pursuant to subsection (c) of this section may be replaced with a different subcontractor except:

(1) If the subcontractor's bid is later determined by the contractor or construction manager at risk to be nonresponsible or nonresponsive, or the listed subcontractor refuses to enter into a contract for the complete performance of the bid work, or

(2) With the approval of the public entity for good cause.

Good faith efforts as set forth in G.S. 143-131(c) shall apply to the selection of a substitute subcontractor. Prior to substituting a subcontractor, the contractor shall identify the substitute subcontractor and inform the public entity of its good faith efforts pursuant to G.S. 143-131(c).

(e) Before awarding a contract, a public entity shall do the following:

(1) Develop and implement a veteran business participation outreach plan to identify veteran businesses that can perform public building projects and implement outreach efforts to encourage veteran business participation in these projects to include education, recruitment, and interaction between veteran businesses and nonveteran businesses.

(2) Attend the scheduled prebid conference.

(3) Utilize other media, as appropriate, likely to inform potential veteran businesses of the bid being sought.

(f) As used in this section:

(1) The term 'veteran business' means a business:

a. In which at least fifty-one percent (51%) is owned by one or more military veterans, or in the case of a corporation, in which at least fifty-one percent (51%) of the stock is owned by one or more military veterans; and

b. Of which the management and daily business operations are controlled by one or more of the military veterans who own it.

(2) The term 'military veteran' means a person who is a citizen or lawful permanent resident of the United States and who served in the armed forces of the United States or the North Carolina National Guard, served a minimum of 180 days, and who was discharged or released therefrom with an honorable discharge or a general discharge under honorable conditions.

(g) Nothing in this section shall be construed to require contractors or awarding authorities to award contracts or subcontracts to or to make purchases of materials or equipment from veteran business contractors or veteran business subcontractors who do not submit the lowest responsible, responsive bid or bids.

(h) Notwithstanding G.S. 132-3 and G.S. 121-5, all public records created pursuant to this section shall be maintained by the public entity for a period of not less than three years from the date of the completion of the building project.

(i) Except as provided in subsections (a), (f), (g), and (h) of this section, this section shall only apply to building projects costing three hundred thousand dollars ($300,000) or more. This section shall not apply to the purchase and erection of prefabricated or relocatable buildings or portions thereof, except that portion of the work that must be performed at the construction site.

(j) Each public or private entity that is subject to this section shall report annually to the Department of Administration on its compliance with the requirements of this section. The Department of Administration shall provide instructions to the reporting entities concerning the manner and date of reporting. The Secretary of the Department of Administration shall make

reports annually to the Joint Legislative Commission on Governmental Operations on information reported pursuant to this subsection.

(k) If the death of a military veteran causes a business to be less than fifty-one percent (51%) owned by one or more military veterans, the surviving spouse of the military veteran who acquires ownership rights in the business shall, for the period set forth in this subsection, be treated as if the surviving spouse were the veteran for the purpose of maintaining the status of the business as a veteran business. This period shall begin on the date the veteran dies and end on the earliest of the following:

(1) The date on which the surviving spouse remarries.

(2) The date on which the surviving spouse relinquishes an ownership interest in the business.

(3) The date that is 10 years after the veteran's death."

SECTION 1.(c) G.S. 143-131 is amended by adding a new subsection to read:

"(c) All public entities shall solicit military veteran participation in contracts for the erection, construction, alteration, or repair of any building awarded pursuant to this section. The public entity shall maintain a record of contractors solicited and shall document efforts to recruit military veteran business participation in those contracts. Nothing in this section shall be construed to require formal advertisement of bids. All data, including the type of project, total dollar value of the project, dollar value of military veteran business participation on each project, and documentation of efforts to recruit military veteran participation shall be reported to the Department of Administration, Division of Veterans Affairs, upon the completion of the project."

PART II. CONFORMING CHANGES

SECTION 2.(a) G.S. 18C-151(a)(4) reads as rewritten:

"(4) The Commission has complied with the minority participation goals of G.S. 143-128.2 and ~~G.S. 143-128.3.~~G.S. 143-128.3, and with the veteran participation goals of G.S. 143-128.5."

SECTION 2.(b) G.S. 113-315.36 reads as rewritten:

"**§ 113-315.36. Building contracts.**

(a) The following general laws, to the extent provided below, do not apply to the North Carolina Seafood Industrial Park Authority:

(1) Repealed by Session Laws 1999-368, s. 1.

(2) Except for ~~G.S. 143-128.2,~~G.S. 143-128.2 and G.S. 143-128.5, Article 8 of Chapter 143 of the General Statutes does not apply to public building contracts of the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars ($250,000). With respect to a contract that is exempted from certain provisions of Article 8 under this subdivision, the powers and duties set out in Article 8 shall be exercised by the Authority, and the Secretary of Administration and other State officers, employees, or agencies shall have no duties or responsibilities concerning the contract.

(3) G.S. 143-341(3) does not apply to plans and specifications for construction or renovation authorized by the Authority that require the estimated expenditure of public money in an amount less than two hundred fifty thousand dollars ($250,000).

(b) Notwithstanding the other provisions of this section, the services of the Department of Administration may be made available to the Authority, when requested by the Authority, with regard to matters governed by Article 8 of Chapter 143 of the General Statutes and G.S. 143-341(3). The Authority shall report quarterly to the Joint Legislative Commission on

Governmental Operations on any building contract to which this exemption is applied. The quarterly report required by this subsection shall specifically include information regarding the Authority's compliance with the provisions of ~~G.S. 143-128.2.~~G.S. 143-128.2 and G.S. 143-128.5."

SECTION 2.(c) G.S. 116-31.11(f) is amended by adding a new subdivision to read:

"(5) Whether the person or business awarded a contract under this section meets the definition of 'veteran business' or 'military veteran' as defined in G.S. 143-128.5(f)."

SECTION 2.(d) G.S. 116D-4 reads as rewritten:

"**§ 116D-4. ~~Minority and~~Minority, veteran, and historically underutilized business participation.**

(a) Minority Business and Veteran Business Participation. – The goals set by G.S. 143-128 and G.S. 143-128.5 for participation in projects by minority and veteran businesses apply to projects funded by the proceeds of bonds or notes issued under this section. The following State agencies shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority and veteran businesses in these projects. The State Construction Office, Department of Administration, shall monitor compliance with regard to projects funded by the proceeds of university improvement general obligation bonds and notes and special obligation bonds and notes; the Board of Governors of The University of North Carolina shall provide the State Construction Office any information required by the State Construction Office to monitor compliance. The Community Colleges System Office shall monitor compliance with regard to projects funded by the proceeds of community college general obligation bonds and notes.

(b) Participation in Providing Professional Services. – The Department of State Treasurer shall provide contracting opportunities for historically underutilized businesses in providing professional services in connection with the issuance of bonds and notes authorized by this section. As used in this subsection, the term "historically underutilized business" means a business described in G.S. 143-48. The Department of State Treasurer shall strive to increase the amount of legal, financial, and other professional services acquired by it from historically underutilized businesses. With the assistance of the Office for Historically Underutilized Businesses in the Department of Administration, the Department of State Treasurer shall set objectives for contracting with these businesses, identify and eliminate barriers or constraints that may restrict these businesses from contracting with the Department, and develop a plan for meeting its objectives. The Department of State Treasurer shall report quarterly to the Office for Historically Underutilized Businesses on its progress in carrying out the requirements of this subsection."

SECTION 2.(e) G.S. 143-128.1 reads as rewritten:

"**§ 143-128.1. Construction management at risk contracts.**

(a) For purposes of this section and G.S. 143-64.31:

(1) "Construction management services" means services provided by a construction manager, which may include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration.

(2) "Construction management at risk services" means services provided by a person, corporation, or entity that (i) provides construction management services for a project throughout the preconstruction and construction phases, (ii) who is licensed as a general contractor, and (iii) who guarantees the cost of the project.

(3) "Construction manager at risk" means a person, corporation, or entity that provides construction management at risk services.

(4) "First-tier subcontractor" means a subcontractor who contracts directly with the construction manager at risk.

(b) The construction manager at risk shall be selected in accordance with Article 3D of this Chapter. Design services for a project shall be performed by a licensed architect or engineer. The public owner shall contract directly with the architect or engineer.

(c) The construction manager at risk shall contract directly with the public entity for all construction; shall publicly advertise as prescribed in G.S. 143-129; and shall prequalify and accept bids from first-tier subcontractors for all construction work under this section. The prequalification criteria shall be determined by the public entity and the construction manager at risk to address quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, capacity to perform, and other factors deemed appropriate by the public entity. The public entity shall require the construction manager at risk to submit its plan for compliance with G.S. 143-128.2 and G.S. 143-128.5 for approval by the public entity prior to soliciting bids for the project's first-tier subcontractors. A construction manager at risk and first-tier subcontractors shall make a good faith effort to recruit and select minority businesses for participation in contracts pursuant to ~~G.S. 143-128.2.~~G.S. 143-128.2 and military veteran businesses for participation in contracts pursuant to G.S. 143-128.5. A construction manager at risk may perform a portion of the work only if (i) bidding produces no responsible, responsive bidder for that portion of the work, the lowest responsible, responsive bidder will not execute a contract for the bid portion of the work, or the subcontractor defaults and a prequalified replacement cannot be obtained in a timely manner, and (ii) the public entity approves of the construction manager at risk's performance of the work. All bids shall be opened publicly, and once they are opened, shall be public records under Chapter 132 of the General Statutes. The construction manager at risk shall act as the fiduciary of the public entity in handling and opening bids. The construction manager at risk shall award the contract to the lowest responsible, responsive bidder, taking into consideration quality, performance, the time specified in the bids for performance of the contract, the cost of construction oversight, time for completion, compliance with ~~G.S. 143-128.2,~~G.S. 143-128.2 and G.S. 143-128.5, and other factors deemed appropriate by the public entity and advertised as part of the bid solicitation. The public entity may require the selection of a different first-tier subcontractor for any portion of the work, consistent with this section, provided that the construction manager at risk is compensated for any additional cost incurred.

When contracts are awarded pursuant to this section, the public entity shall provide for a dispute resolution procedure as provided in G.S. 143-128(f1).

(d) The construction manager at risk shall provide a performance and payment bond to the public entity in accordance with the provisions of Article 3 of Chapter 44A of the General Statutes."

SECTION 2.(f) G.S. 143-129.4 reads as rewritten:

"**§ 143-129.4. Guaranteed energy savings contracts.**

The solicitation and evaluation of proposals for guaranteed energy savings contracts, as defined in Part 2 of Article 3B of this Chapter, and the letting of contracts for these proposals are not governed by this Article but instead are governed by the provisions of that Part; except that guaranteed energy savings contracts are subject to the requirements of ~~G.S. 143-128.2~~G.S. 143-128.2, 143-128.5, and ~~G.S.~~ 143-135.3."

SECTION 2.(g) G.S. 143-135.5(a) and the catch line of G.S. 143-135 read as rewritten:

"**§ 143-135.5. State policy; cooperation in promoting the use of small, minority, physically ~~handicapped and women~~handicapped, women, and military veteran contractors; purpose.**

(a) It is the policy of this State to encourage and promote the use of small, minority, physically ~~handicapped and women~~handicapped, women, and military veteran contractors in State construction projects. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage and promote the use of small, minority, physically ~~handicapped and women~~handicapped, women, and military veteran contractors in achieving the purpose of this Article, which is the effective and economical construction of public buildings."

SECTION 2.(h) G.S. 143-135.26(9)b1. reads as rewritten:

"b1. The entity includes in its bid or proposal requirements that the contractor will file a plan for making a good faith effort to reach the minority participation goal set out in ~~G.S. 143-128.2.~~G.S. 143-128.2 and the veteran business participation goal set out in G.S. 143-128.5."

SECTION 2.(i) G.S. 147-33.97 reads as rewritten:

"**§ 147-33.97. Information technology procurement policy; reporting requirements.**

(a) Policy. – In order to further the policy of the State to encourage and promote the use of small, minority, physically ~~handicapped, and women~~handicapped, women, and veteran contractors in State purchasing of goods and services, all State agencies covered by this Part shall cooperate with the Office in efforts to encourage the use of small, minority, physically ~~handicapped, and women~~ handicapped, women, and veteran contractors in achieving the purpose of this Part, which is to provide for the effective and economical acquisition, management, and disposition of information technology.

(a1) A vendor submitting a bid shall disclose in a statement, provided contemporaneously with the bid, where services will be performed under the contract sought, including any subcontracts and whether any services under that contract, including any subcontracts, are anticipated to be performed outside the United States. Nothing in this section is intended to contravene any existing treaty, law, agreement, or regulation of the United States.

(a2) The State Chief Information Officer shall retain the statements required by subsection (a1) of this section regardless of the State entity that awards the contract and shall report annually to the Secretary of Administration on the number of contracts which are anticipated to be performed outside the United States.

(b) Reporting. – Every State agency that makes a direct purchase of information technology using the services of the Office shall report directly to the Department of Administration all information required by G.S. 143-48(b).

(c) The Department of Administration shall collect and compile the data described in this section and report it annually to the Office."

SECTION 2.(j) G.S. 148-37.2(j) reads as rewritten:

"(j) Minority Business Participation. – G.S. 143-128.2 ~~applies~~ and G.S. 143-128.5 apply to the Projects authorized in this section."

SECTION 3. This act is effective when it becomes law and applies to bids solicited on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 406*
PROPOSED COMMITTEE SUBSTITUTE H406-PCS70415-SF-20

Short Title: W.Just.Acad./Wldlife Res. Firing/Arch Range. (Public)

Sponsors:

Referred to:

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF JUSTICE AND THE WILDLIFE RESOURCES COMMISSION TO DEVELOP JOINTLY A PLAN FOR CONSTRUCTION OF A FIRING RANGE FOR USE BY CRIMINAL JUSTICE OFFICERS ATTENDING THE WESTERN JUSTICE ACADEMY, LAW ENFORCEMENT OFFICERS OF THE WILDLIFE RESOURCES COMMISSION AND OTHERS AND FOR A FIRING AND ARCHERY RANGE OPEN AND ACCESSIBLE FOR PUBLIC USE; AND TO PROVIDE THAT ANY FIRING RANGE CONSTRUCTED ON THE GROUNDS OF THE LARRY T. JUSTUS WESTERN JUSTICE ACADEMY SHALL BE AN INDOOR FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Justice and the Wildlife Resources Commission shall develop jointly a plan for the construction and operation of a firing range on land owned by the Wildlife Resources Commission in Polk County. The plan shall identify a tract of land comprising approximately 10 acres located in the Big Hungry section of the Green River game land approved by the Wildlife Resources Commission for this purpose. The plan shall provide for a firing range that can accommodate the needs of the criminal justice officers attending the Larry T. Justus Western Justice Academy, federal, State, and local agencies, community college law enforcement training, and the law enforcement officers of the Wildlife Resources Commission, as well as provide a facility for hunter safety classes supervised and conducted by the Wildlife Resources Commission. The plan shall further provide for a public firing and archery range, open and accessible for public use, to be operated by the Wildlife Resources Commission.

SECTION 2. Any firing range constructed by the Department of Justice on or adjacent to the grounds of the Larry T. Justus Western Justice Academy shall be built as an indoor facility.

SECTION 3. Funds appropriated to the Department of Justice for the 2007-2009 fiscal biennium for a firing range at the Western Justice Academy shall be used to plan and construct the firing range developed in accordance with Section 1 of this act.

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

HOUSE BILL 406:
W. Just. Acad./Wldlife Res. Firing/Arch. Range

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Wildlife Resources, if favorable, Appropriations	**Date:**	May 5, 2009
Introduced by:	Reps. Justus, Guice	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	PCS to First Edition H406-CSSF-20		

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 406 would direct the Department of Justice and the Wildlife Resources Commission to develop a plan for construction of a firing range for use by criminal justice officers and others in law enforcement and a firing and archery range for use by the public.***

The PCS would require the plan to include (i) the identification of a 10 acre tract of land approved by the Wildlife Resources Commission for the firing range, and (ii) a provision for a public firing and archery range. The PCS also would amend the title to reflect the plan changes and clarify that the land owned by the Wildlife Resources Commission is in Polk County.

House Bill 406 has a serial referral to Wildlife Resources and, if favorable, to Appropriations.

[As introduced, this bill was identical to S401, as introduced by Sen. Apodaca, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW: G.S. 17D-2 established the North Carolina Justice Academy in the Department of Justice. The Academy has, but is not limited to, the following functions:

- Providing training programs for criminal justice personnel;
- Providing technical assistance upon request to criminal justice agencies to aid them in the discharge of their responsibilities;
- Developing, publishing, and distributing educational and training materials; and
- Taking other actions as may be necessary or appropriate to carry out its assigned duties and responsibilities.

S.L. 2003-289 designated the Larry T. Justus Western Justice Academy in recognition of Representative Larry T. Justus's dedicated leadership in the North Carolina General Assembly on justice and public safety issues and his commitment to the safety and well-being of the citizens of this State.

G.S. 143-240 created the Wildlife Resources Commission of the Department of Environment and Natural Resources. G.S. 143-239 sets out the Commission's function, purpose, and duty to manage, restore, develop, cultivate, conserve, protect, and regulate the wildlife resources of the State, and to administer the laws relating to game, game and freshwater fishes, and other wildlife resources enacted by the General Assembly.

BILL ANALYSIS: The Department of Justice (Department) and the Wildlife Resources Commission (Commission) would be required to jointly develop a plan for the construction and operation of a firing range on land owned by the Commission in Polk County. The plan would include the following elements:

- Identification of a 10 acre tract of land in the Big Hungry section of the Green River game land approved by the Commission for this purpose;
- Accommodation of the needs of the criminal justice officers attending the Larry T. Justus Western Justice Academy, federal, State, and local agencies, community college law enforcement training, and the law enforcement officers of the Commission, as well as providing a facility for hunter safety classes supervised and conducted by the Commission; and
- Provisions for a firing and archery range, open and accessible for public use, to be operated by the Commission.

SL 2007-323 (the Budget Bill) appropriated $1,974,103 to the Department of Justice (Department) for a Western Justice Academy Firing Range. These funds would be used for planning and building the firing range developed by the plan required by House Bill 406.

EFFECTIVE DATE: The act would become effective when it becomes law.

HOUSE BILL 406*

Short Title:	West. Just. Acad./Wildlife Res. Firing Range.	(Public)
Sponsors:	Representatives Justus; and Johnson.	
Referred to:	State Government/State Personnel, if favorable, Wildlife Resources, if favorable, Appropriations.	

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE DEPARTMENT OF JUSTICE AND THE WILDLIFE RESOURCES COMMISSION TO JOINTLY DEVELOP A PLAN FOR CONSTRUCTION OF A FIRING RANGE FOR USE BY CRIMINAL JUSTICE OFFICERS ATTENDING THE WESTERN JUSTICE ACADEMY, LAW ENFORCEMENT OFFICERS OF THE WILDLIFE RESOURCES COMMISSION, AND OTHERS.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Justice and the Wildlife Resources Commission shall jointly develop a plan for the construction and operation of a firing range on land owned by the Wildlife Resources Commission in Henderson and Polk Counties. The plan shall provide for a firing range that can accommodate the needs of the criminal justice officers attending the Larry T. Justus Western Justice Academy, federal, State, and local agencies, community college law enforcement training, and the law enforcement officers of the Wildlife Resources Commission, as well as providing a facility for hunter safety classes supervised and conducted by the Wildlife Resources Commission.

SECTION 2. Funds appropriated to the Department of Justice for the 2007-2009 fiscal biennium for a firing range at the Western Justice Academy shall be used for planning and construction of the firing range developed by the plan mandated by Section 1 of this act.

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

HOUSE BILL 405*

Short Title:	Western Justice Academy Firing Range.	(Public)
Sponsors:	Representatives Justus; and Johnson.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

March 5, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ANY FIRING RANGE CONSTRUCTED ON THE GROUNDS OF THE LARRY T. JUSTUS WESTERN JUSTICE ACADEMY SHALL BE AN INDOOR FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. Any firing range constructed by the Department of Justice on or adjacent to the grounds of the Larry T. Justus Western Justice Academy shall be built as an indoor facility. Funds appropriated to the Department of Justice for the 2007-2009 fiscal year for a firing range at the Western Justice Academy shall not be used to construct an outdoor firing range.

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

HOUSE BILL 405:
Western Justice Academy Firing Range

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	May 5, 2009
Introduced by:	Reps. Justus, Guice	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: ***House Bill 405 would allow only an indoor firing range to be constructed by the Department of Justice on or adjacent to the grounds of the Larry T. Justus Western Justice Academy and would limit the use of funds appropriated for a Western Justice Academy firing range.***

House Bill 405 has a serial referral to Appropriations.

[As introduced, this bill was identical to S399, as introduced by Sen. Apodaca, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW: In 1973, G.S. 17D-2 established the North Carolina Justice Academy in the Department of Justice. The Academy has, but is not limited to, the following functions:

- Providing training programs for criminal justice personnel;
- Providing technical assistance upon request to criminal justice agencies to aid them in the discharge of their responsibilities;
- Developing, publishing, and distributing educational and training materials; and
- Taking other actions as may be necessary or appropriate to carry out its assigned duties and responsibilities.

S.L. 2003-289 designated the Larry T. Justus Western Justice Academy in recognition of Representative Larry T. Justus's dedicated leadership in the North Carolina General Assembly on justice and public safety issues and his commitment to the safety and well-being of the citizens of this State.

BILL ANALYSIS: SL 2007-323 (the Budget Bill) appropriated $1,974,103 to the Department of Justice (Department) for a Western Justice Academy Firing Range. House Bill 405 would specifically prohibit the Department from using those funds to construct an outdoor firing range and would require that any firing range constructed by the Department on or adjacent to the grounds of the Larry T. Justus Western Justice Academy be built as an indoor facility.

EFFECTIVE DATE: The act would become effective when it becomes law.

VISITOR REGISTRATION SHEET

State Gov. / State Personnel — 5/5/09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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Chris Hayes	Civitas
David McGowan	NC Realtors
Jennifer Willis	NCLCV
Kim McLaughlin	MHANC
Jennifer Mahan	MHANC
Candice Butt	NCDSS - NCDSS
Charisse Johnson	NC DHHS - DSS
Bob Hope III	424 Cameron Woods Dr, Apex, NC 27523
Alicia Davis	MWC
[illegible]	NCAZE
Ron Kaylor	NCALE

VISITOR REGISTRATION SHEET

5/5

Name of Committee **Date**

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TIM BRADLEY	NC DOI
Leah Sage Atwell	National Association of Social Workers - NC
Frances Wilkins	guest
Christy Agnew	NC Dept. of Admin.
Seth Dearmin	DOJ
Lisa Martin	NC Home Builders
Colleen Kochanek	Emergency Physicians
Karen McLeod	CFSA-NC
DORANNA ANDERSON	SEANC
Kathy Cope	SEANC
Mike Okun	NCSHAFFCU

VISITOR REGISTRATION SHEET

5/5

Name of Committee **Date**

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Janice Bernstein	CCPS/Victim Compensation
Jon Williams	CCPS
Rusty A. Brown	CCPS/GCC
Sarah Clapp	NCWRC
Gordon Myers	
Joe Marchesani	NC VetBiz, Charlotte
Art Britt	NCDOL
Jennifer Hainwood	NCDOL
Linda Andrews	NC Farm Bureau
Jay Paksoy	National Association of Social Workers - NC

VISITOR REGISTRATION SHEET

5/5

Name of Committee **Date**

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NAME	FIRM OR AGENCY AND ADDRESS
Michael Ridley	DOC
Lori Ann Harris	LAHA
Earl Marett	Johnston Co. D.S.S.
[illegible]	Admin of Gov.
Kathy Boyd	NASW-NC PO Box 27582, Raleigh NC 2761
Jack Register	National Assoc Social Workers - NC Chapter
Glenn Jernigan	N.C. House Caucus
Rose Williams	N.C.D.O.I.
Rita Harris	NC DOC
[illegible]	EHGR
Ardis Watkins	SENC

Minutes
House Committee on State Government/State Personnel
Wednesday, May 6, 2009

The House Committee on State Government/State Personnel met around Chairman Wilkins' desk in the Chamber on Wednesday, May 6, immediately after session. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; and Committee Assistant Nancy Brantley.

The following bills were considered:

HB 780, Building Code/Exempt Equestrian Arenas. Representative Brubaker, the bill's sponsor, explained the bill, which would clarify the North Carolina Building Code exemptions for farm buildings to include equine arenas used for lessons offered to the general public, and for other equine activities, but not for spectator events. Representative Sutton moved for a favorable report of the bill. The motion carried.

HB 1278, High Unemployment Triggers State Response. By motion of Vice Chairman Harrell, the proposed committee substitute (PCS) was adopted for discussion. Representative Pierce, the bill's sponsor, explained that the bill establishes an interagency Emergency Response Team for High Unemployment Areas. During discussion of the bill, Christie Aigner of the Department of Administration commented on the bill and said she would speak with Representative Pierce about clarifying a minor concern she had with some wording in the bill. Representative Womble then moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Appropriations. The motion carried.

The meeting was adjourned at 5:50 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 780 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE NORTH CAROLINA BUILDING CODE EXEMPTION FOR FARM BUILDINGS TO INCLUDE EQUINE ARENAS USED FOR LESSONS OFFERED TO THE GENERAL PUBLIC, AND OTHER EQUINE ACTIVITIES, BUT NOT FOR SPECTATOR EVENTS.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1278 A BILL TO BE ENTITLED AN ACT PROVIDING FOR A STATE GOVERNMENT EMERGENCY RESPONSE TO HIGH UNEMPLOYMENT IN A COUNTY WHENEVER THE COUNTY'S UNEMPLOYMENT RATE EXCEEDS FIFTEEN AND FIVE-TENTHS PERCENT FOR TWO CONSECUTIVE MONTHS.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(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 2009

H 2

HOUSE BILL 780
Committee Substitute Favorable 4/16/09

Short Title: Building Code/Exempt Equestrian Arenas. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE NORTH CAROLINA BUILDING CODE EXEMPTION FOR FARM BUILDINGS TO INCLUDE EQUINE ARENAS USED FOR LESSONS OFFERED TO THE GENERAL PUBLIC, AND OTHER EQUINE ACTIVITIES, BUT NOT FOR SPECTATOR EVENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"**§ 143-138. North Carolina State Building Code.**

...

(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

(b1)~~In addition, the~~The Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

(b2) The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a

fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

(b3) The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

(b4)~~Provided further, that building~~ Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses. For the purposes of this subsection:

(1) A "farm building" shall include any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses, and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall not be exempt if it is used for a spectator event and more than 10 members of the public are present at the farm building for the event.

(2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

(b5)~~Provided further, that no~~No building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

(b6)~~Provided further, that no~~No building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices [the following:]

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

(b7) ~~In addition, the~~ The Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

(b8) Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

(b9) Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

(b10) ~~In addition, the~~The Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

(b11) No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 2. This act is effective when it becomes law and applies to all farm buildings, including farm buildings where construction either began or was completed prior to the effective date of this act.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1278
PROPOSED COMMITTEE SUBSTITUTE H1278-PCS50667-SH-43

Short Title: High Unemployment Triggers State Response. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR A STATE GOVERNMENT EMERGENCY RESPONSE TO HIGH UNEMPLOYMENT IN A COUNTY WHENEVER THE COUNTY'S UNEMPLOYMENT RATE EXCEEDS FIFTEEN AND FIVE-TENTHS PERCENT FOR TWO CONSECUTIVE MONTHS.

The General Assembly of North Carolina enacts:

SECTION 1. Response Team. – There is established the Interagency Emergency Response Team for High Unemployment Areas (Response Team). The State entities on the Response Team, whose missions span the areas of economic development, job creation, workforce training and development, employment services, public assistance, education, public health, and public safety, shall make an emergency response in any county in the State whenever a local area unemployment statistic for a county (based on unadjusted data) exceeds fifteen and five-tenths percent (15.5%) for two consecutive months.

The participating State entities on the Response Team include:

(1) Department of Administration.
(2) Department of Commerce.
(3) Department of Crime Control and Public Safety.
(4) Department of Health and Human Services.
(5) Department of Insurance.
(6) Department of Labor.
(7) Department of Public Instruction.
(8) Department of Transportation.
(9) Employment Security Commission.
(10) The University of North Carolina.
(11) North Carolina Community College System.

The Secretary of Commerce, the Secretary of Health and Human Services, and the Deputy Chairman and Chief Operations Officer of the Employment Security Commission shall act cooperatively as the Executive Committee leading the Response Team. All policy, strategic, and tactical decisions of the Executive Committee shall be made by majority vote. Each participating State entity shall be represented by at least two high-level employees designated by the head of the entity, each of whom must have the authority to activate and coordinate the entity's high unemployment emergency response pursuant to this act. With the approval of the Governor, the Executive Committee has the power to request, and shall receive immediately,

from all officers, agents, and departments of the executive branch of State government any information ascertainable, or within their possession, and any assistance within their power.

The Executive Committee shall consult with the Governor to provide recommendations concerning the issuance of executive orders by the Governor, as requested. The Department of Administration shall provide lead support assistance to the Response Team as requested by the Executive Committee.

SECTION 2. High Unemployment Trigger/Action. – The Deputy Chairman and Chief Operations Officer of the Employment Security Commission shall monitor continually the unemployment rates throughout the State and shall notify the other members of the Executive Committee whenever a local area unemployment statistic for a county (based on unadjusted data) exceeds fifteen and five-tenths percent (15.5%) for two consecutive months so that the Response Team may be activated immediately.

At the direction of the Executive Committee, the Response Team shall take all coordinated actions within the power of the respective participating State entities necessary to:

(1) Alleviate the extraordinary burden of high unemployment by simplifying and expediting, to the fullest extent allowed by law, applications for unemployment compensation, public assistance, and other needed services.

(2) Intensify economic development and job creation activities in the county and the surrounding area.

(3) Educate the citizens of the county about available retraining and educational opportunities in the region and simplify access to those resources.

(4) Obtain the assistance of available federal government resources for the benefit of the affected citizens of the county.

(5) Open additional temporary offices of the participating entities in the county, as needed.

(6) Offer additional education and training opportunities in the county, as appropriate.

(7) Provide assistance to local law enforcement and crime prevention agencies as requested by those local agencies having jurisdiction.

(8) Provide assistance to municipal and county governments, as appropriate.

(9) Engage in any other lawful activity that lessens the adverse effect of, or enhances the State's response to, a high unemployment emergency.

SECTION 3. Suspending the Response. – When a local area unemployment statistic for the county (based on unadjusted data) drops to or below fifteen and five-tenths percent (15.5%), and remains at or below that level for three consecutive months, then the Response Team shall suspend its response in the county unless the Executive Committee determines, with the approval of the Governor, that a continued post-emergency response is warranted. In that case, the Executive Committee may continue with an appropriate post-emergency response in that county for up to six months.

SECTION 4. Reporting. – Beginning January 1, 2010, and annually thereafter, the Executive Committee shall report to the Governor and to the General Assembly on Response Team actions during the previous year and may recommend legislative proposals related to State and local government responses to high unemployment emergencies.

SECTION 5. Effective Date. – This act is effective when it becomes law.

HOUSE BILL 1278

Short Title:	High Unemployment Triggers State Response.	(Public)
Sponsors:	Representatives Pierce; Bryant, Faison, Parmon, Randleman, Tolson, West, and Wray.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR A STATE GOVERNMENT EMERGENCY RESPONSE TO HIGH UNEMPLOYMENT IN A COUNTY WHENEVER THE COUNTY'S UNEMPLOYMENT RATE EXCEEDS FIFTEEN AND FIVE-TENTHS PERCENT FOR TWO CONSECUTIVE MONTHS.

The General Assembly of North Carolina enacts:

SECTION 1. Response Team. – There is established the Interagency Emergency Response Team for High Unemployment Areas (Response Team). The State entities on the Response Team, whose missions span the areas of economic development, job creation, workforce training and development, employment services, public assistance, education, public health, and public safety, shall make an emergency response in any county in the State whenever a local area unemployment statistic for a county (based on unadjusted data) exceeds fifteen and five-tenths percent (15.5%) for two consecutive months.

The participating State entities on the Response Team include:

(1) Department of Administration.
(2) Department of Commerce.
(3) Department of Crime Control and Public Safety.
(4) Department of Health and Human Services.
(5) Department of Insurance.
(6) Department of Labor.
(7) Department of Public Instruction.
(8) Department of Transportation.
(9) Employment Security Commission.
(10) The University of North Carolina.
(11) North Carolina Community College System.

The Commissioner of Labor, the Secretary of Health and Human Services, and the Chief Deputy Commissioner of the Employment Security Commission shall act cooperatively as the Executive Committee leading the Response Team. All policy, strategic, and tactical decisions of the Executive Committee shall be made by majority vote. Each participating State entity shall be represented by at least two high-level employees designated by the head of the entity, each of whom must have the authority to activate and coordinate the entity's high unemployment emergency response pursuant to this act. With the approval of the Governor, the Executive Committee has the power to request, and shall receive immediately, from all officers, agents, and departments of the executive branch of State government any information ascertainable, or within their possession, and any assistance within their power.

The Executive Committee shall consult with the Governor to provide recommendations concerning the issuance of Executive Orders by the Governor, as requested. The Department of Administration shall provide lead support assistance to the Response Team as requested by the Executive Committee.

SECTION 2. High unemployment trigger/action. – The Chief Deputy Commissioner of the Employment Security Commission shall monitor continually the unemployment rates throughout the State and shall notify the other members of the Executive Committee whenever a local area unemployment statistic for a county (based on unadjusted data) exceeds fifteen and five-tenths percent (15.5%) for two consecutive months so that the Response Team may be activated immediately.

At the direction of the Executive Committee, the Response Team shall take all coordinated actions within the power of the respective participating State entities necessary to:

(1) Alleviate the extraordinary burden of high unemployment by simplifying and expediting, to the fullest extent allowed by law, applications for unemployment compensation, public assistance, and other needed services.

(2) Intensify economic development and job creation activities in the county and the surrounding area.

(3) Educate the citizens of the county about available retraining and educational opportunities in the region and simplify access to those resources.

(4) Obtain the assistance of available federal government resources for the benefit of the affected citizens of the county.

(5) Open additional, temporary offices of the participating entities in the county, as needed.

(6) Offer additional education and training opportunities in the county, as appropriate.

(7) Provide assistance to local law enforcement and crime prevention agencies as requested by those local agencies having jurisdiction.

(8) Provide assistance to municipal and county governments, as appropriate.

(9) Engage in any other lawful activity that lessens the adverse effect of, or enhances the State's response to, a high unemployment emergency.

SECTION 3. Suspending the response. – When local area unemployment statistic for the county (based on unadjusted data) drops to or below fifteen and five-tenths percent (15.5%), and remains at or below that level for three consecutive months, then the Response Team shall suspend its response in the county unless the Executive Committee determines, with the approval of the Governor, that a continued post-emergency response is warranted. In that case, the Executive Committee may continue with an appropriate post-emergency response in that county for up to six months.

SECTION 4. Reporting. – Beginning January 1, 2010, and annually thereafter, the Executive Committee shall report to the Governor and to the General Assembly on Response Team actions during the previous year and may recommend legislative proposals related to State and local government responses to high unemployment emergencies.

SECTION 5. Effective date. – This act is effective when it becomes law.

Minutes
House Committee on State Government/State Personnel
Tuesday, May 12, 2009

The House Committee on State Government/State Personnel met on Tuesday, May 12, 2009, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley, Womble and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines, Toussaint Avent, Gerald Perry and James Worth.

Pages for the meeting were Ryan McDaniel of Iredell County, sponsored by Representative Mills, and Andrew McClure of Guilford County, sponsored by John Blust.

The following bills were considered:

HB 1046, Child Care Facilities Rules. By motion of Representative Burr, the proposed committee substitute (PCS), which would insert a statutory citation that had been omitted, was adopted for discussion. Representative Martha Alexander explained the bill. Following discussion, Representative Mobley moved for a favorable report as to the Committee Substitute Bill #2, unfavorable as to Committee Substitute Bill #1. The motion carried.

HB 1409, Building Code Exclusion/Certain Wiring. By motion of Representative Harrell, the proposed committee substitute (PCS) was adopted for discussion. Representative Justus, one of the sponsors, explained the bill, which would amend the law governing the State Building Code to exempt certain simple wiring activities and appliance replacement from building permitting requirements when the activity or replacement is of the same electrical rating and requires no change to existing electrical circuits and the work is performed by a licensed electrician. Representative Sutton moved for a favorable report as to Committee Substitute #2, unfavorable as to Committee Substitute Bill #1. The motion carried.

HB 1410, Building Code Exclusion/Hot Water Heaters. By motion, the proposed committee substitute (PCS) was adopted for discussion. Representative Sutton moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill. The motion carried.

HB 972, Boone Water Intake Easement. The bill sponsor, Representative Tarleton, explained the bill, which gives the Town of Boone the right to construct and maintain a water intake system in the waters and submerged land of the South Fork of the New River. Representative Womble moved for a favorable report of the bill. The motion carried.

HB 808, Community College Construction Process. By motion of Representative Burr, the PCS was adopted for discussion. Representative Dockham, a

sponsor of the bill, explained that the PCS would make the construction process for community college facilities more efficient. Representative Burr moved to give the bill a favorable report as to the committee substitute bill, which changed the title, unfavorable as to the original bill. The motion carried.

HB 859, Amend Conditions of Probation. One of the bill's sponsors, Representative Guice, explained the bill. Representative Randleman then moved for a favorable report. The motion carried.

HB 1108, Clarify Licensure Requirements/Out-of-State Weighmasters. Following Representative Hill's explanation of the bill, Representative Harrell moved for a favorable report. The motion carried.

HB 949, Reed Gold Mine Revolving Fund. By motion of Representative Sager, the proposed committee substitute (PCS) was adopted for discussion. Representative Johnson, one of the bill's sponsors, explained that the bill establishes the Reed Gold Mine Fund to be used for the operation, interpretation, maintenance, preservation, development and expansion of the Mine. Representative Sutton moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Finance. The motion carried.

HB 1453, State Maintenance Vehicles-Parking Capitol. By motion of Representative Killian, the proposed committee substitute (PCS) was adopted for discussion. Representative Dollar, the bill's sponsor, explained the bill. Representative Harrell then moved for a favorable report as to the committee substitute bill, which changed the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Finance. The motion carried.

HB 1481, Energy to Commerce, OEO to Energy. Representative Womble moved for adoption of the PCS, which passed. Representative Harrison explained that the PCS for HB 1481 transfers the State Energy Office from the Department of Administration to the Department of Commerce and transfers the Residential Energy Conservation Assistance Program from the Department of Health and Human Services to the Energy Office of the Department of Commerce. The bill also makes a number of changes to the Energy Policy Act of 1975. Representative Mobley moved for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Appropriations. The motion carried.

HB 1031, Bldg. Stds./Pre-K Classes in Public Schools. Representative Folwell, one of the sponsors of the bill, explained that this bill provides that public schools seeking voluntary child care facility licensure may use the same building standards for prekindergarten classrooms as for kindergarten classrooms meeting certain requirements. Representative Womble moved for a favorable report on the bill. The motion carried.

HB 1377, Taxpayer Optimization Act. Representative Folwell, one of the bill sponsors, explained that this bill makes certain sales of State property subject to upset

bids. Representative Sager moved for a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary II. The motion carried.

Meeting Continued After Session.

Chairman Wilkins recessed the meeting at 2:45 PM. At 6:25 PM, following Session, the meeting was reconvened and the following bills were considered.

HB 1035, UNC Performance & Payment Bond Modification. Representative Goforth, one of the bill's sponsors, explained the bill, which would increase the performance and payment bonding requirement for construction project contracts awarded by the University of North Carolina that exceed five hundred thousand dollars. Representative Randleman moved for a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations. The motion carried.

HB 1088, DHHS/Procurement Methods. Representative Braxton explained that the bill would amend the State purchase and contract laws to exempt group purchases made by developmental centers, neuromedical treatment centers, and alcohol and drug abuse treatment centers through a competitive bidding purchasing program. Representative Justus moved for a favorable report. The motion carried.

HB 1082, Repair & Renovation Fund Formula. Representative Crawford was recognized to explain the bill, which would amend the statutes pertaining to the Repairs and Renovations Reserve Account to allocate 50% of the funds in the Account to the Board of Governors of The University of North Carolina, and 50% to the Office of State Budget and Management, to be used for repairs and renovations. Representative Sutton moved for a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations. The motion carried.

HB 1249, Deep Vein Thrombosis Awareness Month. Vice Chairman Harrell explained his bill, which would designate March as Deep Vein Thrombosis Awareness Month. Representative Mackey moved for a favorable report. The motion carried.

HB 1251, Cancer Screening Awareness Month. By motion of Representative Mackey, the proposed committee substitute (PCS) for HB 1251 was adopted for discussion. Vice Chairman Harrell explained that the bill would designate June as Cancer Screening Awareness Month in North Carolina. Representative Sager moved for a favorable report as to the committee substitute bill, unfavorable as to the original bill. The motion carried.

The meeting was adjourned at 6:40 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 1046 A BILL TO BE ENTITLED AN ACT TO TRANSFER THE AUTHORITY TO ADOPT RULES ESTABLISHING STANDARDS APPLICABLE TO CHILD CARE CENTERS THAT PROVIDE DEVELOPMENTAL DAY PROGRAMS.

☒ With a favorable report as to 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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 1409 A BILL TO BE ENTITLED AN ACT TO EXEMPT CERTAIN SIMPLE WIRING ACTIVITIES AND APPLIANCE REPLACEMENT IN RESIDENCES FROM BUILDING PERMITTING REQUIREMENTS WHEN THE APPLIANCE IS OF THE SAME ELECTRICAL RATING AND REQUIRES NO CHANGE TO EXISTING ELECTRICAL CIRCUITS AND THE WORK IS PERFORMED BY A LICENSED ELECTRICIAN.

☒ With a favorable report as to 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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1410 A BILL TO BE ENTITLED AN ACT TO EXEMPT WATER HEATER REPLACEMENT IN RESIDENCES FROM BUILDING PERMITTING REQUIREMENTS WHEN THE HEATER IS OF THE SAME SIZE AND CAPACITY AND IS IN THE SAME LOCATION WITH RESPECT TO THE EXISTING WATER PIPING.

☒ With a favorable report as to the committee substitute bill, 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.

5-12

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 972 A BILL TO BE ENTITLED AN ACT TO GRANT THE RIGHT TO CONSTRUCT AND MAINTAIN A WATER INTAKE SYSTEM IN THE TOWN OF BOONE.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 808 A BILL TO BE ENTITLED AN ACT DIRECTING THE STATE BOARD OF COMMUNITY COLLEGES TO STUDY STRATEGIES FOR MAKING THE CONSTRUCTION PROCESS FOR COMMUNITY COLLEGE FACILITIES MORE EFFICIENT.

☒ 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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 859 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS GOVERNING THE CONDITIONS OF PROBATION.

☒ 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 _____.

5-12

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1108 A BILL TO BE ENTITLED AN ACT TO CLARIFY LICENSURE REQUIREMENTS FOR OUT-OF-STATE WEIGHMASTERS UNDER THE LAWS REGULATING PUBLIC WEIGHMASTERS.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 949 A BILL TO BE ENTITLED AN ACT ESTABLISHING THE REED GOLD MINE FUND IN THE DIVISION OF STATE HISTORIC SITES.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1453 A BILL TO BE ENTITLED AN ACT TO ALLOW STATE MAINTENANCE VEHICLES TO PARK IN METERED PARKING SPACES NEAR THE CAPITOL GROUNDS AND TO PROHIBIT PARKING OF MAINTENANCE VEHICLES ON THE STATE CAPITOL GROUNDS IN A MANNER THAT OBSTRUCTS THE VIEW OF OR ACCESS TO MONUMENTS.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on FINANCE.

(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.

5-12

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1481 A BILL TO BE ENTITLED AN ACT TO TRANSFER THE STATE ENERGY OFFICE FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF COMMERCE AND TO TRANSFER THE OFFICE OF ECONOMIC OPPORTUNITY FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO THE ENERGY OFFICE OF THE DEPARTMENT OF COMMERCE.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 1031 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT PUBLIC SCHOOLS SEEKING VOLUNTARY CHILD CARE FACILITY LICENSURE MAY USE THE SAME BUILDING STANDARDS FOR PREKINDERGARTEN CLASSROOMS AS FOR KINDERGARTEN CLASSROOMS MEETING CERTAIN REQUIREMENTS.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1377 A BILL TO BE ENTITLED AN ACT TO MAKE CERTAIN SALES OF STATE PROPERTY SUBJECT TO UPSET BIDS.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY II.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 1035 A BILL TO BE ENTITLED AN ACT TO INCREASE THE PERFORMANCE AND PAYMENT BONDING REQUIREMENT FOR CONSTRUCTION PROJECT CONTRACTS AWARDED BY THE UNIVERSITY OF NORTH CAROLINA THAT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1088 A BILL TO BE ENTITLED AN ACT TO EXEMPT FROM THE PURCHASES AND CONTRACTS LAW PURCHASES BY CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1082 A BILL TO BE ENTITLED AN ACT TO ESTABLISH A STATUTORY FORMULA FOR THE DISTRIBUTION OF REPAIR AND RENOVATION FUNDS.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1249 A BILL TO BE ENTITLED AN ACT ESTABLISHING DEEP VEIN THROMBOSIS AWARENESS MONTH.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1251 A BILL TO BE ENTITLED AN ACT ESTABLISHING JUNE AS CANCER SCREENING AWARENESS MONTH.

☒ With a favorable report as to the committee substitute bill, 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.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, May 12, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

HB 208	Spay/Neuter Program Transfer/Funds. — Pulled from Agenda Representatives Harrison, Wray, Cotham and Carney
HB 808	Study Community College Construction Process. Representatives Gulley and Dockham
HB 859	Amend Conditions of Probation. Representative Guice, Spear, Warren and Faison
HB 949	Reed Gold Mine Revolving Fund. Representatives Johnson and Barnhart
HB 972	Boone Water Intake Easement. Representative Tarleton
HB 1031	Bldg. Stds./Pre-K Classes in Public Schools. Representatives Folwell, Carney, Goforth and Dollar
HB 1046	Child Care Facilities Rules. Representative Martha B. Alexander
HB 1082	Repair & Renovation Fund Formula. Representative Crawford
HB 1088	DHHS/Procurement Methods. Representative Braxton
HB 1108	Clarify License Req/Out of State Weighmasters Representative Hill
HB 1249	Deep Vein Thrombosis Awareness Month. Representatives Harrell and England
HB 1251	Cancer Screening Awareness Month. Representatives Harrell, Burris-Floyd, England and Holliman
HB 1377	Taxpayer Optimization Act. Representatives Folwell, McElraft, Brown and Moore
HB 1409	Building Code Exclusion/Certain Wiring. Representatives Justice, Grady, Owens and Gibson
HB 1410	Building Code Exclusion/Hot Water Heaters. Representatives Justice, Johnson, Justus, and Brisson
HB 1453	State Maintenance Vehicles-Parking Capitol. Representative Dollar
HB 1481	Energy to Commerce; OEO to Energy. Representatives Bryant and Harrison

II. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1046
Committee Substitute Favorable 5/6/09
PROPOSED COMMITTEE SUBSTITUTE H1046-PCS10951-SF-27

Short Title: Child Care Facilities Rules. (Public)

Sponsors:

Referred to:

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE AUTHORITY TO ADOPT RULES ESTABLISHING STANDARDS APPLICABLE TO CHILD CARE CENTERS THAT PROVIDE DEVELOPMENTAL DAY PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-147(a) reads as rewritten:

"(a) There is hereby created the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State and local mental health, developmental disabilities, substance abuse programs including education, prevention, intervention, screening, assessment, referral, detoxification, treatment, rehabilitation, continuing care, emergency services, case management, and other related services. Such rules shall be designed to promote the amelioration or elimination of the mental illness, developmental disabilities, or substance abuse problems of the citizens of this State. Rules establishing standards for certification of child care centers providing Developmental Day programs are excluded from this section and shall be adopted by the Child Care Commission under G.S. 110-88. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall have the authority:

(1) To adopt rules regarding the

a. Admission, including the designation of regions, treatment, and professional care of individuals admitted to a facility operated under the authority of G.S. 122C-181(a), that is now or may be established;

b. Operation of education, prevention, intervention, treatment, rehabilitation and other related services as provided by area mental health, developmental disabilities, and substance abuse authorities, county programs, and all providers of public services under Part 4 of Article 4 of Chapter 122C of the General Statutes;

c. Hearings and appeals of area mental health, developmental disabilities, and substance abuse authorities as provided for in Part 4 of Article 4 of Chapter 122C of the General Statutes; and

d. and e.Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1, 2002.

f. Standards of public services for mental health, developmental disabilities, and substance abuse services.

(2) To adopt rules for the licensing of facilities for the mentally ill, developmentally disabled, and substance abusers, under Article 2 of Chapter 122C of the General Statutes.

(3) To advise the Secretary of the Department of Health and Human Services regarding the need for, provision and coordination of education, prevention, intervention, treatment, rehabilitation and other related services in the areas of:

a. Mental illness and mental health,

b. Developmental disabilities,

c. Substance abuse.

d. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1, 2002.

(4) To review and advise the Secretary of the Department of Health and Human Services regarding all State plans required by federal or State law and to recommend to the Secretary any changes it thinks necessary in those plans; provided, however, for the purposes of meeting State plan requirements under federal or State law, the Department of Health and Human Services is designated as the single State agency responsible for administration of plans involving mental health, developmental disabilities, and substance abuse services.

(5) To adopt rules relating to the registration and control of the manufacture, distribution, security, and dispensing of controlled substances as provided by G.S. 90-100.

(6) To adopt rules to establish the professional requirements for staff of licensed facilities for the mentally ill, developmentally disabled, and substance abusers. Such rules may require that one or more, but not all staff of a facility be either licensed or certified. If a facility has only one professional staff, such rules may require that that individual be licensed or certified. Such rules may include the recognition of professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or welfare.

(7) Except where rule making authority is assigned under that Article to the Secretary of the Department of Health and Human Services, to adopt rules to implement Article 3 of Chapter 122C of the General Statutes.

(8) To adopt rules specifying procedures for waiver of rules adopted by the Commission.

(9) To adopt rules establishing a process for non-Medicaid eligible clients to appeal to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services decisions made by an area authority or county program affecting the client. The purpose of the appeal process is to ensure that mental health, developmental disabilities, and substance abuse services are delivered within available resources, to provide an additional level of review independent of the area authority or county program to ensure appropriate application of and compliance with applicable statutes and rules, and to provide additional opportunities for the area authority or county program to resolve the underlying complaint. Upon receipt of a written request by the non-Medicaid eligible client, the Division shall review the decision of the area authority or

county program and shall advise the requesting client and the area authority or county program as to the Division's findings and the bases therefor. Notwithstanding Chapter 150B of the General Statutes, the Division's findings are not a final agency decision for purposes of that Chapter. Upon receipt of the Division's findings, the area authority or county program shall issue a final decision based on those findings. Nothing in this subdivision shall be construed to create an entitlement to mental health, developmental disabilities, and substance abuse services."

SECTION 2. G.S. 110-88 is amended by adding the following new subdivision to read:

"(14) To adopt rules establishing standards for certification of child care centers providing Developmental Day programs."

SECTION 3. This act becomes effective January 1, 2010.

HOUSE BILL 1046:
Child Care Facilities Rules

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 12, 2009
Introduced by:	Rep. M. Alexander	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	PCS to Second Edition H1046-CSSF-27		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute (PCS) to House Bill 1046 would move the authority to adopt rules establishing standards for certification of child care centers that are providing developmental day programs from the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (MHDDSAS) to the Child Care Commission.***

The proposed committee substitute would insert a statutory citation that had been omitted.

CURRENT LAW: G.S. 143B-147 creates the Commission for MHDDSAS in the Department of Health and Human Services. The Commission is charged with adopting rules to be followed in State and local mental health, developmental disabilities, and substance abuse programs.

Article 7 of Chapter 110 of the General Statutes creates the Child Care Commission. G.S. 110-88 sets forth the powers and duties of the Commission which include adopting rules for licensure as a child care facility.

BILL ANALYSIS: The PCS for House Bill 1046 would amend G.S. 143B-147(a) to provide that rules establishing standards for child care centers that provide Developmental Day programs shall be adopted by the Child Care Commission rather than the Commission for MHDDSAS . The PCS also would amend G.S. 110-88 to give the Child Care Commission the authority to adopt rules for child care centers providing Developmental Day programs.

EFFECTIVE DATE: The act would become effective January 1, 2010.

H1046-SMSF-59(e2) v1

HOUSE BILL 1046
Committee Substitute Favorable 5/6/09

Short Title: Child Care Facilities Rules. (Public)

Sponsors:

Referred to:

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE AUTHORITY TO ADOPT RULES ESTABLISHING STANDARDS APPLICABLE TO CHILD CARE CENTERS THAT PROVIDE DEVELOPMENTAL DAY PROGRAMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-147(a) reads as rewritten:

"(a) There is hereby created the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services with the power and duty to adopt, amend and repeal rules to be followed in the conduct of State and local mental health, developmental disabilities, substance abuse programs including education, prevention, intervention, screening, assessment, referral, detoxification, treatment, rehabilitation, continuing care, emergency services, case management, and other related services. Such rules shall be designed to promote the amelioration or elimination of the mental illness, developmental disabilities, or substance abuse problems of the citizens of this State. Rules establishing standards for certification of child care centers providing Developmental Day programs are excluded from this section and shall be adopted by the Child Care Commission. The Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services shall have the authority:

(1) To adopt rules regarding the

a. Admission, including the designation of regions, treatment, and professional care of individuals admitted to a facility operated under the authority of G.S. 122C-181(a), that is now or may be established;

b. Operation of education, prevention, intervention, treatment, rehabilitation and other related services as provided by area mental health, developmental disabilities, and substance abuse authorities, county programs, and all providers of public services under Part 4 of Article 4 of Chapter 122C of the General Statutes;

c. Hearings and appeals of area mental health, developmental disabilities, and substance abuse authorities as provided for in Part 4 of Article 4 of Chapter 122C of the General Statutes; and

d. and e.Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1, 2002.

f. Standards of public services for mental health, developmental disabilities, and substance abuse services.

(2) To adopt rules for the licensing of facilities for the mentally ill, developmentally disabled, and substance abusers, under Article 2 of Chapter 122C of the General Statutes.

(3) To advise the Secretary of the Department of Health and Human Services regarding the need for, provision and coordination of education, prevention, intervention, treatment, rehabilitation and other related services in the areas of:
   a. Mental illness and mental health,
   b. Developmental disabilities,
   c. Substance abuse.
   d. Repealed by Session Laws 2001-437, s. 1.21(a), effective July 1, 2002.

(4) To review and advise the Secretary of the Department of Health and Human Services regarding all State plans required by federal or State law and to recommend to the Secretary any changes it thinks necessary in those plans; provided, however, for the purposes of meeting State plan requirements under federal or State law, the Department of Health and Human Services is designated as the single State agency responsible for administration of plans involving mental health, developmental disabilities, and substance abuse services.

(5) To adopt rules relating to the registration and control of the manufacture, distribution, security, and dispensing of controlled substances as provided by G.S. 90-100.

(6) To adopt rules to establish the professional requirements for staff of licensed facilities for the mentally ill, developmentally disabled, and substance abusers. Such rules may require that one or more, but not all staff of a facility be either licensed or certified. If a facility has only one professional staff, such rules may require that that individual be licensed or certified. Such rules may include the recognition of professional certification boards for those professions not licensed or certified under other provisions of the General Statutes provided that the professional certification board evaluates applicants on a basis which protects the public health, safety or welfare.

(7) Except where rule making authority is assigned under that Article to the Secretary of the Department of Health and Human Services, to adopt rules to implement Article 3 of Chapter 122C of the General Statutes.

(8) To adopt rules specifying procedures for waiver of rules adopted by the Commission.

(9) To adopt rules establishing a process for non-Medicaid eligible clients to appeal to the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services decisions made by an area authority or county program affecting the client. The purpose of the appeal process is to ensure that mental health, developmental disabilities, and substance abuse services are delivered within available resources, to provide an additional level of review independent of the area authority or county program to ensure appropriate application of and compliance with applicable statutes and rules, and to provide additional opportunities for the area authority or county program to resolve the underlying complaint. Upon receipt of a written request by the non-Medicaid eligible client, the Division shall review the decision of the area authority or county program and shall advise the requesting client and the area authority or county program as to the Division's findings and the bases therefor. Notwithstanding Chapter 150B of the General Statutes, the Division's findings are not a final agency decision for purposes of that Chapter. Upon receipt of the Division's findings, the area authority or county program shall

issue a final decision based on those findings. Nothing in this subdivision shall be construed to create an entitlement to mental health, developmental disabilities, and substance abuse services."

SECTION 2. G.S. 110-88 is amended by adding the following new subdivision to read:

"(14) To adopt rules establishing standards for certification of child care centers providing Developmental Day programs."

SECTION 3. This act becomes effective January 1, 2010.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1409
Committee Substitute Favorable 5/7/09
PROPOSED COMMITTEE SUBSTITUTE H1409-PCS10972-RO-41

Short Title: Building Code Exclusion/Certain Wiring. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN SIMPLE WIRING ACTIVITIES AND APPLIANCE REPLACEMENT IN RESIDENCES FROM BUILDING PERMITTING REQUIREMENTS WHEN THE APPLIANCE IS OF THE SAME ELECTRICAL RATING AND REQUIRES NO CHANGE TO EXISTING ELECTRICAL CIRCUITS AND THE WORK IS PERFORMED BY A LICENSED ELECTRICIAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the

manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses. A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, fixtures (excluding repair or replacement of same type), appliances (excluding replacements with the same electrical rating), or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. The exclusions from building permit requirements set forth in this paragraph for electrical wiring devices, fixtures, and appliances shall apply only to work performed on a one- or two-family dwelling by a person licensed under G.S. 87-43.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices [the following:]

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code

Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 2. G.S. 153A-357(a) reads as rewritten:

"(a) No person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any ~~building;~~building.

(2) The installation, extension, or general repair of any plumbing ~~system;~~system.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system; or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an

electrical appliance that is being replaced, provided that all of the following requirements are met:

a. With respect to appliances, the replacement appliance is placed in the same location and is of the same electrical rating as the original.

b. With respect to electrical fixtures and devices, the replacement is with a fixture or device having the same voltage and amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The repair or replacement installation meets the current edition of the State Electrical Code.

~~without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor."

SECTION 3. G.S. 160A-417(a) reads as rewritten:

"(a) No person shall commence or proceed ~~with:~~with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or ~~structure,~~structure.

(2) The installation, extension, or general repair of any plumbing ~~system,~~ system.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system, or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit, a permit shall not be required for repair or replacement of electrical lighting fixtures or devices, such as receptacles and lighting switches, or for the connection of an existing branch circuit to an electrical appliance that is being replaced, provided that all of the following requirements are met:

a. With respect to appliances, the replacement appliance is placed in the same location and is of the same electrical rating as the original.
b. With respect to electrical fixtures and devices, the replacement is with a fixture or device having the same voltage and amperage.
c. The work is performed by a person licensed under G.S. 87-43.
d. The repair or replacement installation meets the current edition of the State Electrical Code.

~~without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor."

SECTION 4. This act becomes effective October 1, 2009.

HOUSE BILL 1409:
Building Code Exclusion/Certain Wiring

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 11, 2009
Introduced by:	Reps. Justice, Grady, Owens, Gibson	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to Second Edition H1409-CSRO-41		

SUMMARY: House Bill 1409 amends the law governing the State Building Code to exempt certain simple wiring activities and appliance replacement from building permitting requirements when the activity or replacement is of the same electrical rating and requires no change to existing electrical circuits and the work is performed by a licensed electrician. The bill creates the same exemption from local building permitting requirements.

CURRENT LAW:

Under current law, a building permit is required under the State Building Code or any local variance for any construction, installation, repair, replacement, or alteration in a single family residence if the work involves;

- The addition, repair, or replacement of load bearing structures;
- The addition, (excluding replacement of same size and capacity) or change in the design of plumbing;
- The addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, or equipment;
- The use of materials not permitted by the North Carolina Uniform Residential Building Code; or
- The addition (excluding replacement of like grade of fire resistance) of roofing.

BILL ANALYSIS:

Section 1 of the bill amends the State Building Code law to exclude from the building permit requirement the repair or replacement of electrical wiring, devices, or fixtures of the same type, and replacement of appliances with the same electrical rating,. The exclusions apply only to work performed on a one- or two-family dwelling by a licensed electrician.

Section 2 of the bill creates a similar exemption from the county inspection permit requirement for repair or replacement of electrical fixtures or devices, or for the connection of an existing branch circuit to an electrical appliance that is being replaced, if the following conditions are met:

- The replacement appliance is placed in the same location and is of the same electrical rating as the original.
- The replacement of fixtures and devices is with a fixture or device having the same voltage and amperage.
- The work is performed by a licensed electrician.

- The repair or replacement installation meets the current edition of the State Electrical Code.

Section 3 of the bill makes and identical change to the law governing municipal inspection permits.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

H1409-SMRO-92(CSRO-41) v1

HOUSE BILL 1409
Committee Substitute Favorable 5/7/09

Short Title: Building Code Exclusion/Certain Wiring. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT CERTAIN SIMPLE WIRING ACTIVITIES AND APPLIANCE REPLACEMENT IN RESIDENCES FROM BUILDING PERMITTING REQUIREMENTS WHEN THE APPLIANCE IS OF THE SAME ELECTRICAL RATING AND REQUIRES NO CHANGE TO EXISTING ELECTRICAL CIRCUITS AND THE WORK IS PERFORMED BY A LICENSED ELECTRICIAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

In addition, the Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed

by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

Provided further, that building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses. A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

Provided further, that no building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, fixtures (excluding repair or replacement of same capacity), appliances (excluding replacements with the same electrical rating), or equipment (excluding replacements with like wiring and electrical rating), the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. The exclusions from building permit requirements set forth in this paragraph for electrical wiring, devices, fixtures, appliances, and equipment shall apply only to work performed on a one- or two-family dwelling by a person licensed under G.S. 87-43.

Provided further, that no building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices [the following:]

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

In addition, the Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous

ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

In addition, the Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 2. G.S. 153A-357(a) reads as rewritten:

"(a) No person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any ~~building;~~building.

(2) The installation, extension, or general repair of any plumbing ~~system;~~system.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system; or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit a permit shall not be required for repair or replacement of electrical fixtures or devices or for the connection of an existing branch circuit to an electrical appliance that is being replaced, provided that all of the following requirements are met:

a. With respect to appliances, the replacement appliance is placed in the same location and is of the same electrical rating as the original.

b. With respect to electrical fixtures and devices, the replacement is with a fixture or device having the same voltage and amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The original installation met the version of the State Building Code in effect at the time of installation.

~~without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor."

SECTION 3. G.S. 160A-417(a) reads as rewritten:

"(a) No person shall commence or proceed ~~with:~~with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or ~~structure,~~structure.

(2) The installation, extension, or general repair of any plumbing ~~system,~~ system.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system, or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit, a permit shall not be required for repair or replacement of electrical fixtures or devices or for the connection of an existing branch circuit to an electrical appliance that is being replaced, provided that all of the following requirements are met:

a. With respect to appliances, the replacement appliance is placed in the same location and is of the same electrical rating as the original.

b. With respect to electrical fixtures and devices, the replacement is with a fixture or device having the same voltage and amperage.

c. The work is performed by a person licensed under G.S. 87-43.

d. The original installation met the version of the State Building Code in effect at the time of installation.

~~without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor."

SECTION 4. This act becomes effective October 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1410
PROPOSED COMMITTEE SUBSTITUTE H1410-PCS10971-RO-42

Short Title: Building Code Exclusion/Hot Water Heaters. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT WATER HEATER REPLACEMENT IN RESIDENCES FROM BUILDING PERMITTING REQUIREMENTS WHEN THE HEATER IS OF THE SAME SIZE AND CAPACITY AND IS IN THE SAME LOCATION WITH RESPECT TO THE EXISTING WATER PIPING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-357 reads as rewritten:

"**§ 153A-357. Permits.**

(a) No person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any ~~building;~~building.

(2) The installation, extension, or general repair of any plumbing ~~system;~~system except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of existing water piping to an electric water heater that is being replaced, provided that the replacement is in the same location and is of the same size and capacity as the original and is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system; or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that the replacement is placed in the same location and is of the same size, capacity, and electrical rating as the original and is installed in accordance with the current edition of the State Building Code.

~~without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws and local ordinances and regulations. Nothing in this section shall require a

county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor.

...."

SECTION 2. G.S. 160A-417 reads as rewritten:

"**§ 160A-417. Permits.**

(a) No person shall commence or proceed ~~with:~~with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or ~~structure,~~structure.

(2) The installation, extension, or general repair of any plumbing ~~system,~~system, except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of existing water piping to an electric water heater that is being replaced, provided that the replacement is in the same location and is of the same size and capacity as the original and is installed in accordance with the current edition of the State Building Code.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system, or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of an existing branch circuit to an electric water heater that is being replaced, provided that the replacement is placed in the same location and is of the same size, capacity, and electrical rating as the original and is installed in accordance with the current edition of the State Building Code.

~~without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are

identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

...."

SECTION 3. This act becomes effective October 1, 2009.

HOUSE BILL 1410:
Building Code Exclusion/Hot Water Heaters

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 11, 2009
Introduced by:	Reps. Justice, Johnson, Justus, Brisson	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H1410-CSRO-42		

SUMMARY: ***House Bill 1410 amends the laws governing county and municipal building inspection permits to exempt electric water heater replacements in residences from the permitting requirement if the heater is of the same size and capacity and is in the same location.***

BILL ANALYSIS:

Section 1 of the bill amends the county inspection permitting law to create and exception for the connection of existing water piping to an electric water heater in a one- or two-family dwelling, that is being replaced, if the replacement is in the same location and of the same size and capacity as the original, and is installed in accordance with the current edition of the State Building Code.

This section also creates and exception for the connection of an existing branch circuit to a replaced water heater, if the replacement is in the same location and is of the same size, capacity and electrical rating as the original and is installed in accordance with the current edition of the State Building Code.

Section 2 of the bill makes an identical amendment to the municipal inspection permitting law.

EFFECTIVE DATE: This act becomes effective October 1, 2009.

H1410-SMRO-93(CSRO-42) v1

HOUSE BILL 1410

Short Title:	Building Code Exclusion/Hot Water Heaters.	(Public)
Sponsors:	Representatives Justice, Johnson, Justus, Brisson (Primary Sponsors); Cleveland, Langdon, Lucas, McComas, McElraft, and Starnes.	
Referred to:	Commerce, Small Business, and Entrepreneurship, if favorable, State Government/State Personnel.	

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT WATER HEATER REPLACEMENT IN RESIDENCES FROM BUILDING PERMITTING REQUIREMENTS WHEN THE HEATER IS OF THE SAME SIZE AND CAPACITY AND IS IN THE SAME LOCATION WITH RESPECT TO THE EXISTING WATER PIPING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-357 reads as rewritten:

"**§ 153A-357. Permits.**

(a) No person may commence or proceed with any of the following without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any ~~building;~~building.

(2) The installation, extension, or general repair of any plumbing ~~system;~~system except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of existing water piping to a water heater that is being replaced, provided that the replacement is in the same location and is of the same size and capacity as the original and provided that the original installation met the version of the State Building Code in effect at the time of installation.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system; or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of an existing branch circuit to a water heater that is being replaced, provided that the replacement is placed in the same location and is of the same size, capacity, and electrical rating as the original and provided that the original installation met the version of the State Building Code in effect at the time of installation.

~~without first securing from the inspection department with jurisdiction over the site of the work each permit required by the State Building Code and any other State or local law or local ordinance or regulation applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable

State and local laws and local ordinances and regulations. Nothing in this section shall require a county to review and approve residential building plans submitted to the county pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the county may review and approve such residential building plans as it deems necessary. No permit may be issued unless the plans and specifications are identified by the name and address of the author thereof; and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit may be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. If a provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work may be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of G.S. Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single-family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section constitutes a Class 1 misdemeanor.

...."

SECTION 2. G.S. 160A-417 reads as rewritten:

"**§ 160A-417. Permits.**

(a) No person shall commence or proceed ~~with:~~with any of the following without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work:

(1) The construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or ~~structure,~~structure.

(2) The installation, extension, or general repair of any plumbing ~~system,~~ system, except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of existing water piping to a water heater that is being replaced, provided that the replacement is in the same location and is of the same size and capacity as the original and provided that the original installation met the version of the State Building Code in effect at the time of installation.

(3) The installation, extension, alteration, or general repair of any heating or cooling equipment ~~system; or~~system.

(4) The installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment, except that in any one- or two-family dwelling unit, a permit shall not be required for the connection of an existing branch circuit to a water heater that is being replaced, provided that the replacement is placed in the same location and is of the same size, capacity, and electrical rating as the original and provided that the original installation met the version of the State Building Code in effect at the time of installation.

~~without first securing from the inspection department with jurisdiction over the site of the work any and all permits required by the State Building Code and any other State or local laws applicable to the work.~~ A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable State and local laws. Nothing in this section shall require a city to review and approve residential building plans

submitted to the city pursuant to Section R-110 of Volume VII of the North Carolina State Building Code; provided that the city may review and approve such residential building plans as it deems necessary. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if the General Statutes of North Carolina require that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the North Carolina seal of a registered architect or of a registered engineer. When any provision of the General Statutes of North Carolina or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor. No permit issued under Articles 9 or 9C of Chapter 143 shall be required for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a Class 1 misdemeanor.

...."

SECTION 3. This act becomes effective October 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 972

Short Title:	Boone Water Intake Easement.	(Public)
Sponsors:	Representative Tarleton.	
Referred to:	Water Resources and Infrastructure, if favorable, State Government/State Personnel.	

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO GRANT THE RIGHT TO CONSTRUCT AND MAINTAIN A WATER INTAKE SYSTEM IN THE TOWN OF BOONE.

The General Assembly of North Carolina enacts:

SECTION 1. The State of North Carolina through special act of the General Assembly expressly grants and conveys to the Town of Boone the right to construct and maintain a water intake system in the waters and submerged land of the South Fork of the New River notwithstanding any public trust rights. The water intake system shall be located approximately 2,470 linear feet upstream from the center of the Cranberry Springs Road Bridge in the South Fork of the New River in Watauga County, North Carolina. The dimensions of the intake system shall be 170 feet in length and 55 feet in width. Nothing in this act shall be construed to relieve the Town of Boone from securing any applicable permits for the project.

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

HOUSE BILL 972:
Boone Water Intake Easement

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 11, 2009
Introduced by:	Rep. Tarleton	**Prepared by:**	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: House Bill 972 gives the Town of Boone the right to construct and maintain a water intake system in the waters and submerged land of the South Fork of the New River notwithstanding any public trust rights.

BILL ANALYSIS:

House Bill 972 grants the Town of Boone the right to construct and maintain a water intake system in the waters and submerged land of the South Fork of the New River notwithstanding any public trust rights. The bill provides that: (i) the intake would be located approximately 2,470 linear feet upstream from the center of the Cranberry Springs Road Bridge in the South Fork of the New River in Watauga County; and (ii) the dimensions of the intake system would be 170 feet in length and 55 feet in width. The bill states that the provisions are not to be construed to relieve the Town from securing any applicable permits for the project.

ACKGROUND:

In 2004, a study revealed that Boone was rapidly approaching maximum capacity from its existing water sources. When a water system reaches 80 percent of capacity, the Department of Environment and Natural Resources recommends a plan for expansion. When the system reaches 90 percent capacity, the Department recommends the expansion be under construction. If not underway, the State could impose a moratorium on new water hookups. Boone surpassed the 80 percent mark in 2006 and is projected to reach the 90 percent mark in 2009.[1]

Under the public trust doctrine, the State holds title to the submerged lands under navigable waters, "It is a title held in trust for the people of the state so that they may navigate, fish, and carry on commerce in the waters involved." *State v. Forehand*[2]. In *Gwathmey v. State through Dept. of Environment, Health, and Natural Resources through Cobey*[3], the court concluded:

> "the General Assembly is not prohibited by our laws or Constitution from conveying in fee simple lands underlying waters that are navigable in law without reserving public trust rights. The General Assembly has the power to convey such lands, but under the public trust doctrine it will be presumed not to have done so. That presumption is rebutted by a special grant of the General Assembly conveying the lands in question free of all public trust rights, but only if the special grant does so in the clearest and most express terms."

CURRENT LAW:

Under Article 2 of Chapter 146 of the General Statutes (Dispositions, State Lands) the Department of dministration does have the authority to grant easements, rights-of-way, and other rights in State lands

[1] http://www.townofboone.net/Raw%20Water%20Education%20Items/hdout.8.5.pdf
[2] 67 N.C. App. 148, 151, 312 S.E.2d 247, 249 (1984)
[3] 342 N.C. 287, 464 S.E.2d 674 (1995)

for the purpose of serving the public interest. Further, GS 146-12 allows the Department of Administration to grant to adjoining riparian or littoral owners easements in lands covered by navigable waters (submerged lands) upon such conditions as the Department deems proper, but specifically provides that any easement granted shall include a term (among others) that:

> "Specifies that the holder of the easement shall not exclude or prevent the public from exercising public trust rights, including commercial and recreational fishing, shellfishing, seine netting, pound netting, and other fishing rights."

EFFECTIVE DATE:

The bill would become effective when it becomes law.

H972-SMSH-113(e1) v1

Jennifer McGinnis, staff to the H. Water Resources and Infrastructure Committee, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 808*
PROPOSED COMMITTEE SUBSTITUTE H808-PCS30389-SF-28

Short Title: Community College Construction Process. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE THE CONSTRUCTION PROCESS FOR COMMUNITY COLLEGE FACILITIES MORE EFFICIENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115D-4 reads as rewritten:

"**§ 115D-4. Establishment of ~~institutions; capital improvements;~~ institutions.**

The establishment of all community colleges shall be subject to the approval of the General Assembly upon recommendation of the State Board of Community Colleges. In no case, however, shall favorable recommendation be made by the State Board for the establishment of an institution until it has been demonstrated to the satisfaction of the State Board that a genuine educational need exists within a proposed administrative area, that existing public and private post-high school institutions in the area will not meet the need, that adequate local financial support for the institution will be provided, that public schools in the area will not be affected adversely by the local financial support required for the institution, and that funds sufficient to provide State financial support of the institution are available.

~~The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.~~"

SECTION 2. Article 1 of Chapter 115D of the General Statutes is amended by adding a new section to read:

"**§ 115D-9. Powers of State Board regarding certain fee negotiations, contracts, and capital improvements.**

(a) The expenditures of any State funds for any capital improvements of existing institutions shall be subject to the prior approval of the State Board of Community Colleges and the Governor. The expenditure of State funds at any institution herein authorized to be approved by the State Board under G.S. 115D-4 shall be subject to the terms of the State Budget Act unless specifically otherwise provided in this Chapter.

(b) Notwithstanding G.S. 143-341(3), the State Board of Community Colleges shall, with respect to design, construction, repair, or renovation of buildings, utilities, and other State or non-State funded property developments of the North Carolina Community College System requiring the estimated expenditure of public money of one million dollars ($1,000,000) or less:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the State Board shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(c) The State Board may delegate its authority under subsection (b) of this section to a community college if the community college is qualified under guidelines adopted by the State Board and approved by the State Building Commission and the Director of the Budget.

(d) The North Carolina Community College System shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(e) A contract may not be divided for the purpose of evading the monetary limit under this section.

(f) Notwithstanding any other provision of this Chapter, the Department of Administration shall not be the awarding authority for contracts awarded under this section.

(g) The State Board shall annually report to the State Building Commission the following:

(1) A list of projects governed by this section.

(2) The estimated cost of each project along with the actual cost.

(3) The name of each person awarded a contract under this section.

(4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g)."

SECTION 3. G.S. 143-341 reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(3) Architecture and Engineering:

a. To examine and approve all plans and specifications for the construction or renovation of:

1. All State buildings or buildings located on State lands, except those buildings over which a local building code inspection department has and exercises jurisdiction; and

2. All community college buildings requiring the estimated expenditure for construction or repair work for which public bidding is required under G.S. 143-129 prior to the awarding of a contract for such work; and to examine and approve all changes in those plans and specifications made after the contract for such work has been awarded.

a1. To organize and schedule, within three weeks of designer selection and before the design contract is let, a meeting of the stakeholders for each State capital improvement project to discuss plan review requirements and to define the terms of the memorandum of understanding developed by the State Building Commission pursuant to G.S. 143-135.26(2). The stakeholders shall include the funded agency, each State agency having plan review responsibilities for the

project, and the selected designer. Notwithstanding the foregoing, the meeting need not be scheduled if the funded agency so requests.

b. To assist, as necessary, all agencies in the preparation of requests for appropriations for the construction or renovation of all State buildings.

b1. To certify that a statement of needs pursuant to G.S. 143C-3-3 is feasible. For purposes of this sub-subdivision, "feasible" means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-subdivision shall not apply to requests for appropriations of less than one hundred thousand dollars ($100,000).

c. To supervise the letting of all contracts for the design, construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision.

d. To supervise and inspect all work done and materials used in the construction or renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under a.2. of this subdivision; and no such work may be accepted by the State or by any State agency until it has been approved by the Department.

e. To require all State agencies to use existing plans and specificiations for construction projects, where feasible. Prior to designing a project, State agencies shall consult with the Department of Administration on the availability of appropriate existing plans and specifications and the feasibility of using them for a project.

Except for sub-subdivisions b., b1., and e. of this subdivision, this subdivision does not apply to the design, construction, or renovation of projects by The University of North Carolina ~~pursuant to G.S. 116-31.11.~~ under G.S. 116-31.11, or by the North Carolina Community College System under G.S. 115D-9."

SECTION 4. This act is effective when it becomes law and applies to design, construction, repair, or renovation projects for which bids or proposals are solicited on or after April 30, 2010.

HOUSE BILL 808:
Community College Construction Process

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 12, 2009
Introduced by:	Reps. Gulley, Dockham	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	PCS to First Edition H808-CSSF-28		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute (PCS) to House Bill 808 would make the construction process for community college facilities more efficient.***

The first edition of House Bill 808 would have required the State Board of Community Colleges to review the construction process for community college facilities and study strategies for making the process more efficient. The PCS to House Bill 808 would make statutory changes to give the State Board of Community Colleges authority regarding certain fee negotiations, contracts, and capital improvements.

[As introduced, this bill was identical to S418, as introduced by Sen. Clodfelter, which is currently in Rules and Operations of the Senate.]

Section 1.

Current Law: G.S. 115D-4 requires that the expenditure of any State funds for any capital improvements of existing institutions be subject to prior approval by the State Board of Community Colleges and the Governor. Also, the expenditure of State funds at any institution authorized to be approved by the State Board are subject to the terms of the State Budget Act unless specifically provided for otherwise.

Analysis: The part of G.S. 115D-4 concerning expenditure of State funds for capital improvements would be removed from that section and placed in a new section of G.S. 115D governing certain fee negotiations, contracts, and capital improvements. (See Section 2 of the PCS)

Section 2.

Current Law: G.S. 143-341(3) requires the Department of Administration to:

- examine and approve all plans and specifications for the construction and renovation of all community college buildings requiring the estimated expenditure for construction or repair work for which public bidding is required prior to the awarding of a contract for such work, and to examine and approve all changes in those plans and specifications made after the contract for such work has been awarded;
- supervise the letting of all contracts for the design, construction or renovation of all community college buildings whose plans and specifications must be examined and approved;
- supervise and inspect all work done and materials used in the construction or renovation of all community college buildings whose plans and specifications must be examined and approved

Analysis: A new section establishing the powers of the State Board of Community Colleges regarding certain fee negotiations, contracts, and capital improvements would be created in Article 1 of Chapter 115D (Community Colleges) of the General Statutes.

Section (a) would amend current law by adding a reference to G.S. 115D-4.

Section (b) would move from the Department of Administration (under G.S. 143-341(3)) to the State Board of Community Colleges (under new G.S. 115D-9) the authority, for design, construction, or repair and renovation projects of the North Carolina Community College System requiring an estimated expenditure of public money of $1,000,000 or less, to:

- conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts;
- develop procedures governing the responsibilities of the North Carolina Community College System and its community colleges to perform the duties previously performed by the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) (projects where no registered architects or engineer is required) and G.S. 143-341(3); and
- use existing plans and specifications for construction projects, where feasible.

Section (c) would allow the State Board to delegate its authority under section (b) to qualified community colleges. The State Board would adopt qualification guidelines that would be approved by the State Building Commission and the Director of the Budget.

Section (d) would require the North Carolina Community College System to use the standard contracts for design and construction currently being used by the Office of State Construction for State capital improvement projects.

Section (e) would provide that no contract could be divided for the purpose of evading the monetary limit of $1,000,000.

Section (f) would clarify that the Department of Administration would not be the awarding authority for contracts awarded under this section.

Section (g) would require the State Board to report certain information annually to the State Building Commission.

Sections 3 would make conforming changes to G.S. 143-341(3).

Section 4 would establish the effective date.

EFFECTIVE DATE: The act would become effective when it becomes law and would apply to design, construction, repair or renovation projects for which bids or proposals are solicited on or after April 30, 2010.

HOUSE BILL 808*

Short Title:	Study Community College Construction Process.	(Public)
Sponsors:	Representatives Gulley, Dockham (Primary Sponsors); Blackwood, Brisson, Folwell, Johnson, Killian, Mills, and Whilden.	
Referred to:	Education, if favorable, State Government/State Personnel.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT DIRECTING THE STATE BOARD OF COMMUNITY COLLEGES TO STUDY STRATEGIES FOR MAKING THE CONSTRUCTION PROCESS FOR COMMUNITY COLLEGE FACILITIES MORE EFFICIENT.

The General Assembly of North Carolina enacts:

SECTION 1. The State Board of Community Colleges shall review the construction process for community college facilities and shall study strategies for making the process more efficient. In the course of the study the Board shall consider:

(1) The capacity of the various colleges to construct capital facilities without oversight by the Office of State Construction;

(2) The appropriateness of increasing the cost threshold at which oversight by the Office of State Construction is required for some or all of the colleges; and

(3) The need for oversight by the Office of State Construction in counties with an effective county review process.

The State Board of Community Colleges shall report the results of its study to the Joint Legislative Education Oversight Committee prior to March 30, 2010.

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

H 2

HOUSE BILL 859
Committee Substitute Favorable 5/7/09

Short Title: Amend Conditions of Probation. (Public)

Sponsors:

Referred to:

March 30, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS GOVERNING THE CONDITIONS OF PROBATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-1343(b) reads as rewritten:

"(b) Regular Conditions. – As regular conditions of probation, a defendant must:

(1) Commit no criminal offense in any jurisdiction.

(2) Remain within the jurisdiction of the court unless granted written permission to leave by the court or his probation officer.

(3) Report as directed by the court or his probation officer to the officer at reasonable times and places and in a reasonable manner, permit the officer to visit him at reasonable times, answer all reasonable inquiries by the officer and obtain prior approval from the officer for, and notify the officer of, any change in address or employment.

(4) Satisfy child support and other family obligations as required by the court. If the court requires the payment of child support, the amount of the payments shall be determined as provided in G.S. 50-13.4(c).

(5) Possess no firearm, explosive device or other deadly weapon listed in G.S. 14-269 without the written permission of the court.

(6) Pay a supervision fee as specified in subsection (c1).

(7) Remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip him for suitable employment. A defendant pursuing a course of study or of vocational training shall abide by all of the rules of the institution providing the education or training, and the probation officer shall forward a copy of the probation judgment to that institution and request to be notified of any violations of institutional rules by the defendant.

(8) Notify the probation officer if he fails to obtain or retain satisfactory employment.

(9) Pay the costs of court, any fine ordered by the court, and make restitution or reparation as provided in subsection (d).

(10) Pay the State of North Carolina for the costs of appointed counsel, public defender, or appellate defender to represent him in the case(s) for which he was placed on probation.

~~(11) At a time to be designated by his probation officer, visit with his probation officer a facility maintained by the Division of Prisons.~~

(12) Attend and complete an abuser treatment program if (i) the court finds the defendant is responsible for acts of domestic violence and (ii) there is a

program, approved by the Domestic Violence Commission, reasonably available to the defendant, unless the court finds that such would not be in the best interests of justice.

(13) Submit at reasonable times to warrantless searches by a probation officer of his or her person and of his or her vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to his or her probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.

(14) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors, or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.

A defendant shall not pay costs associated with a substance abuse monitoring program or any other special condition of probation in lieu of, or prior to, the payments required by this subsection.

In addition to these regular conditions of probation, a defendant required to serve an active term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and regulations of the Department of Correction governing the conduct of inmates while imprisoned and report to a probation officer in the State of North Carolina within 72 hours of his discharge from the active term of imprisonment.

Regular conditions of probation apply to each defendant placed on supervised probation unless the presiding judge specifically exempts the defendant from one or more of the conditions in open court and in the judgment of the court. It is not necessary for the presiding judge to state each regular condition of probation in open court, but the conditions must be set forth in the judgment of the court.

Defendants placed on unsupervised probation are subject to the provisions of this subsection, except that defendants placed on unsupervised probation are not subject to the regular conditions contained in subdivisions (2), (3), (6), (8), and (11)."

SECTION 2. G.S. 15A-1343(b1) reads as rewritten:

"(b1) Special Conditions. – In addition to the regular conditions of probation specified in subsection (b), the court may, as a condition of probation, require that during the probation the defendant comply with one or more of the following special conditions:

(1) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(2) Attend or reside in a facility providing rehabilitation, counseling, treatment, social skills, or employment training, instruction, recreation, or residence for persons on probation.

(2a) Repealed by Session Laws 2002, ch. 126, s. 17.18, effective August 15, 2002.

(2b) Participate in and successfully complete a Drug Treatment Court Program pursuant to Article 62 of Chapter 7A of the General Statutes.

(3) Submit to imprisonment required for special probation under G.S. 15A-1351(a) or G.S. 15A-1344(e).

(3a) Repealed by Session Laws 1997-57, s. 3.

(3b) Submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and abide by the rules adopted for that Program. Unless otherwise ordered by the court, intensive supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

(3c) Remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically and to pay a fee for the device as specified in subsection (c2) of this section.

(4) Surrender his or her driver's license to the clerk of superior court, and not operate a motor vehicle for a period specified by the court.

(5) Compensate the Department of Environment and Natural Resources or the North Carolina Wildlife Resources Commission, as the case may be, for the replacement costs of any marine and estuarine resources or any wildlife resources which were taken, injured, removed, harmfully altered, damaged or destroyed as a result of a criminal offense of which the defendant was convicted. If any investigation is required by officers or agents of the Department of Environment and Natural Resources or the Wildlife Resources Commission in determining the extent of the destruction of resources involved, the court may include compensation of the agency for investigative costs as a condition of probation. This subdivision does not apply in any case governed by G.S. 143-215.3(a)(7).

(6) Perform community or reparation service and pay any fee required by law or ordered by the court for participation in the community or reparation service program.

~~(7) Submit at reasonable times to warrantless searches by a probation officer of his or her person and of his or her vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to his or her probation supervision, but the probationer may not be required to submit to any other search that would otherwise be unlawful. Whenever the warrantless search consists of testing for the presence of illegal drugs, the probationer may also be required to reimburse the Department of Correction for the actual cost of drug screening and drug testing, if the results are positive.~~

~~(8) Not use, possess, or control any illegal drug or controlled substance unless it has been prescribed for him or her by a licensed physician and is in the original container with the prescription number affixed on it; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs or controlled substances; and not knowingly be present at or frequent any place where such illegal drugs or controlled substances are sold, kept, or used.~~

(8a) Purchase the least expensive annual statewide license or combination of licenses to hunt, trap, or fish listed in G.S. 113-270.2, 113-270.3, 113-270.5, 113-271, 113-272, and 113-272.2 that would be required to engage lawfully in the specific activity or activities in which the defendant was engaged and

which constitute the basis of the offense or offenses of which he was convicted.

(9) If the offense is one in which there is evidence of physical, mental or sexual abuse of a minor, the court should encourage the minor and the minor's parents or custodians to participate in rehabilitative treatment and may order the defendant to pay the cost of such treatment.

(9a) Repealed by Session Laws 2004-186, s. 1.1, effective December 1, 2004, and applicable to offenses committed on or after that date.

(10) Satisfy any other conditions determined by the court to be reasonably related to his rehabilitation."

SECTION 3. This act becomes effective December 1, 2009, and applies to persons sentenced to probation on or after that date.

HOUSE BILL 859:
Amend Conditions of Probation

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 12, 2009
Introduced by:	Reps. Guice, Spear, R. Warren, Faison	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	Second Edition		

SUMMARY: House Bill 859 would amend G.S. 15A-1343 to eliminate the current requirement that a defendant must visit a prison with a probation officer, and would shift the following two existing special conditions, in their entirety, without any change to the language of the provisions, to regular conditions of probation – G.S. 15A-1343(b1)(7) warrantless searches, and G.S. 15A-1343(b1)(8) possession of illegal drugs/association with drug users.

CURRENT LAW: G.S. 15A-1343(b)(11) sets forth as a regular condition of probation, the requirement that a defendant must visit a prison with the defendant's probation officer.

G.S. 15A-1343(b1) currently includes as special conditions of probation (which the court may include as a condition of probation, in addition to the regular conditions listed in G.S. 15A-1343(b)):

- Requiring the defendant to submit at reasonable times to warrantless searches by a probation officer of the defendant's person, vehicle and premises while the probationer is present, for purposes specified by the court and reasonably related to the defendant's probation supervision.
- Requiring the defendant to not use, possess or control illegal drugs or controlled substances without a prescription, to not knowingly associate with known or convicted users, possessors, or sellers, of illegal drugs, and to not knowingly frequent any place where illegal drugs are sold, kept, or used.

BILL ANALYSIS: House Bill 859 would amend G.S. 15A-1343 "Conditions of probation" by:

- Eliminating the current regular condition of probation directing a defendant to visit a prison with the defendant's probation officer; and
- Making the following special conditions regular conditions of probation, without modifying the language of the provisions in any manner:
    - G.S. 15A-1343(b1)(7) requiring probationers to submit to warrantless searches "...for purposes specified by the court and reasonably related to his or her probation supervision, but that the probationer may not be required to submit to any other search that would otherwise be unlawful."; and
    - G.S. 15A-1343(b1)(8) directing probationer to "not use, possess, or control any illegal drug...unless it has been prescribed for him or her...; not knowingly associate with any known or previously convicted users, possessors or sellers of any such illegal drugs...; and not knowingly be present at or frequent any place where such illegal drugs...are sold, kept, or used."

EFFECTIVE DATE: This act becomes effective December 1, 2009, and applies to persons sentenced probation on or after that date.

...i Popkin, counsel to House Judiciary III, substantially contributed to this summary.

H859-SMRO-94(e2) v1

H 1

HOUSE BILL 1108

Short Title:	Clarify Lic Req/Out-of-State Weighmasters.	(Public)
Sponsors:	Representatives Hill; and Lucas.	
Referred to:	Agriculture, if favorable, State Government/State Personnel.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY LICENSURE REQUIREMENTS FOR OUT-OF-STATE WEIGHMASTERS UNDER THE LAWS REGULATING PUBLIC WEIGHMASTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 81A-52 reads as rewritten:

"**§ 81A-52. License.**

All public weighmasters shall be licensed. Any person not less than 18 years of age who wishes to be a public weighmaster shall apply to the Department on a form provided by the Department. A person operating as a public weighmaster outside of this State shall include with the person's application for licensure in this State a copy of the most recent weighing device inspection report performed by the person's local or state weights and measures officials within the 12-month period immediately preceding the date of application. The Board may adopt rules for determining the qualifications of the applicant for a license. Public weighmasters shall be licensed for a period of one year beginning the first day of July and ending on the thirtieth day of June, and a fee of nineteen dollars ($19.00) shall be paid for each person licensed at the time of the filing of the application."

SECTION 2. G.S. 81A-61 reads as rewritten:

"**§ 81A-61. Approval of devices used.**

When making a weight determination, a public weighmaster shall use a weighing device that is of a type suitable for the weighing of the product to be weighed and that has been tested and approved for use by the Commissioner or by the public weighmaster's local or state weights and measures officials within ~~a period of 12 months~~the 12-month period immediately preceding the date of the weighing."

SECTION 3. This act becomes effective October 1, 2009, and applies to applicants for licensure on or after that date.

HOUSE BILL 1108:
Clarify Lic Req/Out-of-State Weighmasters

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 11, 2009
Introduced by:	Rep. Hill	**Prepared by:**	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: House Bill 1108 amends the requirements for State licensure of weighmasters from out-of-state, and allows the use of weighing devices that have been approved by a local weighmaster's local or State weights and measures officials. The bill would become effective October 1, 2009, and applies to applicants for licensure on or after that date.

CURRENT LAW:

G.S. 81A-50.1 provides that public weighmasters are regulated in order to ensure accurate quantities of products upon sale to purchasers.

G.S. 81A-51 defines a "public weighmaster" as any person who shall weigh, measure or count, or who shall ascertain from a weighing, measuring or recording device for any other person and declare the weight to be the accurate weight of the product upon which the purchase, sale or exchange is based, and receive compensation for the act.

G.S. 81A-53 provides that all public weighmasters must issue certificates of weight, measure, count, ading or recording on forms approved by the Department of Agriculture Commissioner and enforce the provisions of Chapter 81A and all rules and regulations promulgated thereunder without compensation from the State. Each certificate issued must indicate the date on which a product is weighed, counted, read or recorded and a certificate issued by a public weighmaster is considered the accurate weight of a product at the time the product is put into the natural channels of trade, with the qualification that reasonable variations or tolerances shall be permitted as established by rules and regulations.

BILL ANALYSIS:

Section 1 of the House Bill 1108 provides that a weighmaster who is licensed out-of-state, and who applies for North Carolina licensure, must provide the most recent inspection report performed by their local or State weights and measures official. The report must have been made within the 12 months preceding the application for State licensure.

Section 2 of the bill allows a public weighmaster to use a device that has been approved by the weighmaster's local or State weights and measures officials within the 12 month period immediately preceding the weighing date.

EFFECTIVE DATE:

House Bill 1108 would become effective October 1, 2009, and applies to applicants for licensure on or after that date.

H1108-SMSH-115(e1) v2
Hal Pell substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 949*
PROPOSED COMMITTEE SUBSTITUTE H949-PCS80427-LG-9

Short Title: Reed Gold Mine Revolving Fund. (Public)

Sponsors:

Referred to:

April 1, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE REED GOLD MINE FUND IN THE DIVISION OF STATE HISTORIC SITES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-7.6. Reed Gold Mine Fund.**

(a) Fund. – The Reed Gold Mine Fund is created as a special fund in the Department of Cultural Resources, Division of State Historic Sites. The interest earned by the Fund shall be credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be used for operation, interpretation, maintenance, preservation, development, and expansion at the Reed Gold Mine State Historic Site.

(b) Disposition of Fees. – Notwithstanding Chapter 146 of the General Statutes, all receipts derived from admissions, fees, and donations, as well as the lease, rental, or other disposition of structures or products of the land owned by or under the supervision or control of the Division of Historic Sites in Cabarrus County shall be credited to the Fund.

(c) The monies credited to this Fund pursuant to this section are annually appropriated to the Department of Cultural Resources."

SECTION 2. This act becomes effective July 1, 2009.

HOUSE BILL 949:
Reed Gold Mine Revolving Fund

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Finance	**Date:**	May 12, 2009
Introduced by:	Reps. Johnson, Barnhart	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition H949-CSLG-9		

SUMMARY: ***House Bill 949 establishes the Reed Gold Mine Fund to be used for the operation, interpretation, maintenance, preservation, development and expansion of the Mine.***

The PCS amends line 14 of the original bill to provide that receipts can be derived from admissions, fees, and donations, as well as the lease, rental or disposition of structures or products of the land.

[As introduced, this bill was identical to S791, as introduced by Sen. Hartsell, which is currently in Senate Appropriations/Base Budget.]

BILL ANALYSIS:

House Bill 949 amends Chapter 121 of the General Statutes to establish a new section (G.S. 121-7.6) on ›r the Reed Gold Mind Fund. The bill contains G.S. 121-7.6 which creates the Reed Gold Mine Fund ; a special fund in the Department of Cultural Resources, Division of Historic Sites. The fund is to be used for operation, interpretation, maintenance, preservation, development, and expansion of the Reed Gold Mine State Historic Site. The Proposed Committee Substitute provides that all receipts from admissions, fees, donations, as well as the lease, rental, or other disposition of structures or products of the land owned by or under the supervision of the Division of Historic Sites in Cabarrus County must be credited to the fund. A new subdivision further provides that monies for the Fund are annually appropriated to the Department of Cultural Resources.

EFFECTIVE DATE:

House Bill 949 would become effective July 1, 2009.

BACKGROUND:

According to the Department of Cultural Resources's Web site (www.nchistoricsites.org), the "Reed Gold Mine is the site of the first documented gold find in the United States."

H949-SMSH-117(CSLG-9) v1

HOUSE BILL 949*

Short Title:	Reed Gold Mine Revolving Fund.	(Public)
Sponsors:	Representatives Johnson, Barnhart (Primary Sponsors); and Dockham.	
Referred to:	State Government/State Personnel, if favorable, Finance.	

April 1, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE REED GOLD MINE FUND IN THE DIVISION OF STATE HISTORIC SITES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-7.6. Reed Gold Mine Fund.**

(a) Fund. – The Reed Gold Mine Fund is created as a special fund in the Department of Cultural Resources, Division of State Historic Sites. The interest earned by the Fund shall be credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be used for operation, interpretation, maintenance, preservation, development, and expansion at the Reed Gold Mine State Historic Site.

(b) Disposition of Fees. – Notwithstanding Chapter 146 of the General Statutes, all receipts derived from donations or the lease, rental, or other disposition of structures or products of the land owned by or under the supervision or control of the Division of Historic Sites in Cabarrus County shall be credited to the Fund.

(c) The monies credited to this Fund pursuant to this section are annually appropriated to the Department of Cultural Resources."

SECTION 2. This act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1453
PROPOSED COMMITTEE SUBSTITUTE H1453-PCS80434-MA-18

Short Title: State Maintenance Vehicles-Parking Capitol. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW STATE MAINTENANCE VEHICLES TO PARK IN METERED PARKING SPACES ADJACENT TO THE CAPITOL GROUNDS AND TO PROHIBIT PARKING OF MAINTENANCE VEHICLES ON THE STATE CAPITOL GROUNDS IN A MANNER THAT OBSTRUCTS THE VIEW OF OR ACCESS TO MONUMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-345.10. General Services Division; parking of maintenance vehicles.**

Maintenance vehicles of the General Services Division may park at any metered parking space located immediately adjacent to the State's Capitol Square without charge when performing work at or on the State's Capitol Square. No maintenance vehicle shall be parked upon the State's Capitol Square in a location that obstructs the view of or access to any monument on the Square, unless the vehicle itself is needed to perform some maintenance function or duty required by this Article."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 1453

Short Title:	State Maintenance Vehicles-Parking Capitol.	(Public)
Sponsors:	Representative Dollar.	
Referred to:	State Government/State Personnel, if favorable, Finance.	

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW STATE MAINTENANCE VEHICLES TO PARK IN METERED PARKING SPACES NEAR THE CAPITOL GROUNDS AND TO PROHIBIT PARKING OF MAINTENANCE VEHICLES ON THE STATE CAPITOL GROUNDS IN A MANNER THAT OBSTRUCTS THE VIEW OF OR ACCESS TO MONUMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-345.10. General Services Division; parking of maintenance vehicles.**

Maintenance vehicles of the General Services Division may park at any metered parking space located at or near the State's Capitol Square without charge. No maintenance vehicle shall be parked upon the State's Capitol Square in a location that obstructs the view of or access to any monument on the Square, unless the vehicle itself is needed to perform some maintenance function or duty required by this Article."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1481
PROPOSED COMMITTEE SUBSTITUTE H1481-PCS70432-RO-34

Short Title: Energy to Commerce; OEO to Energy. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE STATE ENERGY OFFICE FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF COMMERCE, TO TRANSFER THE RESIDENTIAL ENERGY CONSERVATION ASSISTANCE PROGRAM FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO THE ENERGY OFFICE OF THE DEPARTMENT OF COMMERCE, AND TO MAKE VARIOUS CHANGES TO THE ENERGY POLICY ACT OF 1975.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Energy Office is transferred from the Department of Administration to the Department of Commerce. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 1.(b) G.S. 143-345.18(a) reads as rewritten:

"(a) For the purposes of this Part, the Department of ~~Administration,~~ Commerce, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency."

SECTION 1.(c) G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the State Energy Office of the Department of ~~Administration~~ Commerce within 30 days of the date the contract is entered into. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract and shall evaluate whether expected savings have in fact been realized."

SECTION 1.(d) G.S. 143-64.17F reads as rewritten:

"**§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

(a) State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical.

(b) The Department of Administration, in consultation with the Department of Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer.

(c) The Department of Administration, and the Department of Commerce through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

SECTION 1.(e) G.S. 143-64.12(a) reads as rewritten:

"(a) The Department of ~~Administration~~ Commerce through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs."

SECTION 1.(f) G.S. 143-64.11(2a) reads as rewritten:

"**§ 143-64.11. Definitions.**

For purposes of this Article:

...

(2a) "Energy Office" means the State Energy Office of the Department of ~~Administration.~~ Commerce."

SECTION 1.(g) G.S. 143-58.4(a)(4) reads as rewritten:

"(a) As used in this section:

...

(4) "Department" means the Department of ~~Administration.~~Commerce."

SECTION 1.(h) G.S. 143-58.4(c) reads as rewritten:

"(c) Adopt Rules. – The Secretary of ~~Administration~~ Commerce shall adopt rules as necessary to implement this section."

SECTION 1.(i) The Residential Energy Conservation Assistance Program is transferred from the Department of Health and Human Services to the Energy Office of the Department of Commerce, which was transferred to that Department by Section 1 of this act. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 2.(a) Part 34A of Article 3 of Chapter 143B of the General Statutes is recodified as Part 21 of Article 10 of Chapter 143B of the General Statutes, and G.S. 143B-216.72A through G.S. 143B-216.72C are recodified as G.S. 143B-472.121 through G.S. 143B-472.123.

SECTION 2.(b) G.S. 143B-216.72B, as recodified as G.S. 143B-472.122 by this section, reads as rewritten:

"**§ 143B-472.122. Definitions.**

The following definitions apply to this Part:

(1) Applicant. – A member of the family residing in the dwelling unit, the owner, or designated agent of the owner of a dwelling unit applying for program services.
(2) Department. – The Department of ~~Health and Human Services.~~Commerce.
(3) Secretary. – The Secretary of ~~Health and Human Services.~~ Commerce.
(4) Subgrantee. – An entity managing a weatherization project that receives a federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006 edition) from this State or other entity named in the Notification of Grant Award and otherwise referred to as the grantee.
(5) Weatherization. – The modification of homes and home heating and cooling systems to improve heating and cooling efficiency by caulking and weather stripping, as well as insulating ceilings, attics, walls, and floors."

SECTION 3. G.S. 113B-2 reads as rewritten:

"**§ 113B-2. Creation of Energy Policy Council; purpose of Council.**

(a) There is hereby created a council to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of ~~Administration.~~ Commerce.

(b) Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of ~~Administration.~~ Commerce.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 4. G.S. 113B-3 reads as rewritten:

"**§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

(a) The Energy Policy Council shall consist of ~~18~~ 12 members to be appointed as follows:

(1) Two members of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;
(2) Two members of the North Carolina Senate to be appointed by the President Pro Tempore of the Senate;
(3) ~~Nine~~ Eight public members who are citizens of the State of North Carolina to be appointed by the ~~Governor;~~Governor.
~~(4) The chairman of the North Carolina Utilities Commission, the Secretary of Environment and Natural Resources, the Commissioner of Agriculture, the Secretary of Commerce and the Secretary of Administration or their designees from their respective departments.~~

(b) ~~Initial appointments~~ Appointments to the Energy Policy Council shall be made by ~~July 15, 1975,~~ August 1, 2009, and each such appointee shall serve until ~~January 31, 1977.~~ January 31, 2011. Thereafter, the appointed members of the General Assembly shall serve two-year terms, and the appointed public members shall serve four-year terms. A member of the Energy Policy Council shall continue to serve until his successor is duly appointed, but such holdover shall not affect the expiration date of such succeeding term.

(c) The public members of the Energy Policy Council shall have the following qualifications:

(1) One ~~such~~ member shall be experienced in the electric power industry;
(2) One ~~such~~ member shall be experienced ~~in the natural gas industry;~~ in energy policy matters;
(3) One ~~such~~ member shall be experienced in ~~the petroleum marketing industry;~~ alternative fuels and biofuels;

(4) One ~~such~~ member shall be experienced in ~~economic analysis of energy requirements;~~ energy efficient building design or construction;
(5) One ~~such~~ member shall be experienced in environmental protection;
(6) One ~~such~~ member ~~shall be experienced in industrial energy consumption;~~ who is engaged in a business providing renewable energy or other energy services;
(7) One ~~such~~ member shall be knowledgeable of alternative and renewable sources of energy;
(8) One ~~such~~ member who, at the time of appointment, is a county commissioner; or elected municipal officer; provided, ~~such~~ the member's term on the Council shall expire immediately in the event that he or she vacates office as a county ~~commissioner;~~ commissioner or municipal officer.
~~(9) One such member who, at the time of appointment, is an elected municipal official; provided, such member's term on the Council shall expire immediately in the event that he or she vacates office as an elected municipal official.~~"

SECTION 5. G.S. 113B-4(a) reads as rewritten:

"(a) On ~~July 15, 1975,~~ August 1, 2009, on ~~January 31, 1977,~~ January 31, 2011, and every four years thereafter, the Governor shall ~~designate one of the members of the Energy Policy Council to serve as chairman~~ appoint a chair of the Council."

SECTION 6. G.S. 113B-6 reads as rewritten:

"**§ 113B-6. General duties and responsibilities.**

The Energy Policy Council shall have the following general duties and responsibilities:

(1) To develop and recommend to the Governor a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to ~~an energy efficiency program, an energy management plan, an emergency energy program, and an energy research and development program;~~ energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies, and improvements to the State's infrastructure and energy economy;
(2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy and to encourage the efficient use of all such energy forms in a manner consistent with State energy policy;
(3) To continually review and coordinate all State government research, education and management programs relating to energy matters and to continually educate and inform the general public regarding such energy matters;
(4) To recommend to the Governor and to the General Assembly needed energy legislation and to recommend for implementation such modifications of energy policy, plans and programs as the Council considers necessary and desirable.
~~(5) To develop and administer the Low-Income Residential Energy Program. Nothing in this subdivision shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program.~~"

SECTION 7. G.S. 113B-7 is repealed.

SECTION 8. G.S. 113B-10 is repealed.

SECTION 9. G.S. 113B-11 reads as rewritten:

"**§ 113B-11. Powers and authority.**

(a) The Energy Policy Council is authorized to secure directly from any officer, office, department, commission, board, bureau, institution and other agency of the State and its political subdivisions any information it deems necessary to carry out its functions; and all such officers and agencies shall cooperate with the Council and, to the extent permitted by law, furnish such information to the Council as it may request.

(b) To assure the adequate development of relevant energy information, as provided in G.S. 113B-10, the Council may require all energy producers and major energy consumers, as determined by the Council, to file such reports and forecasts and at such dates as the Council may request; provided, however, that the Council may request only specific energy-related information which it deems necessary to carry out its duties as defined in Articles 1 and 2 of this Chapter.

(c) The Council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of ~~Administration.~~ Commerce.

(d) The Council shall have authority to request said Department to allocate and dispense any funds made available to the Council for energy research and related work efforts in such a manner as the Council desires subject only to the stipulation that said funds be reasonably used in furtherance of the purposes of this Article.

(e) The Department of ~~Administration~~ Commerce shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State energy policy."

SECTION 10. G.S.113B-12(b) reads as rewritten:

"(b) The report shall include, but not be limited to, the following:

(1) An overview of statewide growth and development as they relate to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the Council, will significantly affect energy needs;

(2) The level of statewide and multi-county regional energy demand for a five-, 10- and 20-year forecast period which, in the judgment of the Council, can reasonably be met, with proposals as to possible energy supply sources;

(3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas;

(4) An analysis ~~and evaluation of the means by which the projected annual growth rate of energy demand may be reduced, together with an estimate of the amount of such reduction to be obtained by each of the means analyzed and evaluated;~~ of the role of energy efficiency, renewable energy, improvements to the State's energy infrastructure, and other means in meeting the State's current and projected energy demand;

~~(5) The status of the Council's ongoing energy research and development program and an assessment of the energy research and planning efforts carried out in North Carolina;~~

(6) Recommendations to the Governor and the General Assembly for additional administrative and legislative actions on energy matters;

(7) A summary of the Council's activities since its inception, a description of major plans developed by the Council, an assessment of plan implementation, and a review of Council plans and programs for the coming biennium."

SECTION 11. This act becomes effective July 1, 2009.

HOUSE BILL 1481:
Energy to Commerce; OEO to Energy

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	May 12, 2009
Introduced by:	Reps. Bryant, Harrison	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H1481-CSRO-34		

SUMMARY: ***The Proposed Committee Substitute for House Bill 1481 transfers the State Energy Office from the Department of Administration to the Department of Commerce and transfers the Residential Energy Conservation Assistance Program from the Department of Health and Human Services to the Energy Office of the Department of Commerce. The bill also makes a number of changes to the Energy Policy Act of 1975.***

BILL ANALYSIS:

Section 1: transfers the State Energy Office from the Department of Administration to the Department of Commerce as a Type I transfer. Under G.S. 143A-6, a Type I transfer means that all or part of an existing agency is transferred to a principal department, including its statutory authority, powers, duties, d functions, records, personnel, property, unexpended balances of appropriations, allocations, or other nds, as well as the functions of budgeting and purchasing.

This section also makes conforming changes to:

- The Energy Improvement Loan Program.
- The Conservation of Energy, Water and Other Utilities in Government Facilities Act.
- The Energy Credit Banking and Selling Program.

This section also transfers the Residential Energy Conservation Assistance Program from the Department of Health and Human Services to the Energy Office of the Department of Commerce as a Type I transfer.

Section 2: Recodifies the law governing the Energy Assistance Act for Low-Income Persons which is currently located in the statutes governing the Department of Health and Human Services to the statutes governing the Department of Commerce.

Sections 3 through 10: Amends various provisions of the Energy Policy Act of 1975 to make conforming changes as well as the following:

1. Changes the composition of the Energy Policy Council by reducing its membership from 18 to 12 members, and changes some of the required qualifications for certain members.
2. Amends the duties and responsibilities of the Energy Policy Council to include developing and recommending policies related to energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies and improvements in the State's infrastructure and energy economy.
3. Repeals the Energy Efficiency Program and requirements for an Energy Management Plan.

4. Amends the required contents of the annual report prepared by the Council to include an analysis of the role of energy efficiency, renewable energy, improvements to the State's energy infrastructure and other means of meeting the State's current and projected energy demand, and to delete reports on the Council's ongoing research and development program.

EFFECTIVE DATE: This act becomes effective July 1, 2009.

H1481-SMRO-95(CSRO-34) v1

HOUSE BILL 1481

Short Title:	Energy to Commerce; OEO to Energy.	(Public)
Sponsors:	Representatives Bryant and Harrison (Primary Sponsors).	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE STATE ENERGY OFFICE FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF COMMERCE AND TO TRANSFER THE OFFICE OF ECONOMIC OPPORTUNITY FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO THE ENERGY OFFICE OF THE DEPARTMENT OF COMMERCE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Energy Office is transferred from the Department Administration to the Department of Commerce. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 1.(b) G.S. 143-345.18(a) reads as rewritten:

"(a) For the purposes of this Part, the Department of ~~Administration,~~ Commerce, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency."

SECTION 1.(c) G.S. 143-64.17H reads as rewritten:

"**§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the State Energy Office of the Department of ~~Administration~~ Commerce within 30 days of the date the contract is entered into. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract and shall evaluate whether expected savings have in fact been realized."

SECTION 1.(d) G.S. 143-64.17F reads as rewritten:

"**§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.**

(a) State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical.

(b) The Department of ~~Administration,~~ Commerce, through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and

precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer.

(c) The Department of ~~Administration,~~ Commerce, through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

SECTION 1.(e) G.S. 143-64.12(a) reads as rewritten:

"(a) The Department of ~~Administration~~ Commerce through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs."

SECTION 1.(f) G.S. 143-64.11(2a) reads as rewritten:

"**§ 143-64.11. Definitions.**

For purposes of this Article:

...

(2a) "Energy Office" means the State Energy Office of the Department of ~~Administration.~~ Commerce.

...."

SECTION 1.(g) G.S. 143-58.4(a)(4) reads as rewritten:

"(a) As used in this section:

...

(4) "Department" means the Department of ~~Administration.~~Commerce.

...."

SECTION 1.(h) G.S. 143-58.4(c) reads as rewritten:

"(c) Adopt Rules. – The Secretary of ~~Administration~~ Commerce shall adopt rules as necessary to implement this section."

SECTION 1.(i) The Office of Economic Opportunity is transferred from the Department of Health and Human Services to the Energy Office of the Department of Commerce, which was transferred to that Department by Section 1 of this act. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 2.(a) Part 34A of Article 3 of Chapter 143B of the General Statutes is recodified as Part 21 of Article 10 of Chapter 143B of the General Statutes, and G.S. 143B-216.72A through G.S. 143B-216.72A are recodified as G.S. 143B-472.121 through G.S. 143B-472.123.

SECTION 2.(b) G.S. 143B-216.72B, as recodified as G.S. 143B-472.122 by this section, reads as rewritten:

"**§ 143B-472.122. Definitions.**

The following definitions apply to this Part:

(1) Applicant. – A member of the family residing in the dwelling unit, the owner, or designated agent of the owner of a dwelling unit applying for program services.

(2) Department. – The Department of ~~Health and Human Services.~~Commerce.

(3) Secretary. – The Secretary of ~~Health and Human Services.~~ Commerce.

(4) Subgrantee. – An entity managing a weatherization project that receives a federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006 edition) from this State or other entity named in the Notification of Grant Award and otherwise referred to as the grantee.

(5) Weatherization. – The modification of homes and home heating and cooling systems to improve heating and cooling efficiency by caulking and weather stripping, as well as insulating ceilings, attics, walls, and floors."

SECTION 3. This act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1031
Committee Substitute Favorable 5/5/09

Short Title: Bldg. Stds./Pre-K Classes in Public Schools. (Public)

Sponsors:

Referred to:

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT PUBLIC SCHOOLS SEEKING VOLUNTARY CHILD CARE FACILITY LICENSURE MAY USE THE SAME BUILDING STANDARDS FOR PREKINDERGARTEN CLASSROOMS AS FOR KINDERGARTEN CLASSROOMS MEETING CERTAIN REQUIREMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-521.1. Building standards for preschool students.**

A public school that voluntarily applies for a child care facility license may use an existing or newly constructed classroom in a public school for three- and four-year-old preschool students without modifications to the classroom or building if the classroom:

(1) Has at least one toilet and one sink for hand washing;

(2) Meets kindergarten standards for overhead light fixtures; and

(3) Meets kindergarten standards for floors, walls, and ceilings.

A public school that voluntarily applies for a child care facility license shall meet all other requirements for child care facility licensure."

SECTION 2. G.S. 110-90(11) reads as rewritten:

"(11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses.

Notwithstanding any other provision of law, rules adopted by the Commission regarding a public school that voluntarily applies for a child care facility license shall provide that a classroom that meets the standards set out in G.S. 115C-521.1 shall satisfy child care facility licensure requirements as related to the physical classroom."

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

HOUSE BILL 1031:
Bldg. Stds./Pre-K Classes in Public Schools

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 12, 2009
Introduced by:	Reps. Folwell, Carney, Goforth, Dollar	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***House Bill 1031 would permit public schools which voluntarily apply for child care facility licensure to use existing or new classrooms that meet certain kindergarten classroom standards for three- and four-year-old preschool students without modifications. The bill would also require that the rules for voluntary licensure of public schools as child care facilities provide that classrooms meeting the kindergarten standard would satisfy the requirements for physical classrooms.***

CURRENT LAW: Child care facilities that meet applicable standards are licensed by the Child Care Commission (G.S. 110-88). Public schools are not included in the definition of "child care" facilities under the Child Care Facilities article (Article 7 of Chapter 110) and are not required to be licensed by the Commission.

The Secretary of Health and Human Services is authorized in G.S. 110-90(11) to issue a license to facilities not required to be licensed, such as public schools, if those facilities voluntarily apply for a child care facility license, and choose to comply with the requirements of the Article and rules adopted y the Commission.

G.S. 110-91 provides the mandatory standards for a license. These standards include certain building requirements. Child care facilities must be located in buildings that meet the appropriate code requirements of the North Carolina Building Code under standards adopted by the Building Code Council, subject to adoption by the Commission specifically for child care facilities.

BILL ANALYSIS: House Bill 1031 would create a new section in Chapter 115C, G.S. 115C-521.1, to permit a public school that voluntarily applies for a child care facility license to use existing or newly constructed classrooms in public schools for three- and four-year-old preschool students without building modifications, if the classroom:

1) Has at least one toilet and one sink for hand washing,

2) Meets kindergarten standards for overhead light fixtures, and

3) Meets kindergarten standards for floors, walls, and ceilings.

Public schools would otherwise be required to meet the requirements for child care facility licensure.

The bill would also amend the authority of the Secretary of Health and Human Services to issue a license to facilities who voluntarily seek licensure by requiring the Commission's rules regarding voluntary licensure of child care facilities in public schools to provide that, notwithstanding any other provision of law, classrooms meeting the standards of G.S. 115C-521.1 would satisfy child care facility licensure requirements for physical classrooms.

EFFECTIVE DATE: House Bill 1031 would become effective when it becomes law.

Kara McCraw, Counsel to the House Education Committee, substantially contributed to this summary.

H1031-SMSF-56(e2) v3

HOUSE BILL 1377

Short Title:	Taxpayer Optimization Act.	(Public)
Sponsors:	Representatives Folwell, McElraft, Brown, Moore (Primary Sponsors); and Starnes.	
Referred to:	State Government/State Personnel, if favorable, Judiciary II.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN SALES OF STATE PROPERTY SUBJECT TO UPSET BIDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 146-27 reads as rewritten:

"**§ 146-27. The role of the Department of Administration in sales, leases, and rentals.**

(a) General. – Every sale, lease, rental, or gift of land owned by the State or by any State agency shall be made by the Department of Administration and approved by the Governor and Council of State. A lease or rental of land owned by the State may not exceed a period of 99 years. The Department of Administration may initiate proceedings for sales, leases, rentals, and gifts of land owned by the State or by any State agency.

(b) Large Disposition. – If a proposed disposition is a sale or gift of land with an appraised value of at least twenty-five thousand dollars ($25,000), the sale or gift shall not be made until after consultation with the Joint Legislative Commission on Governmental Operations.

(b1) Upset Bids. – If a proposed disposition of land or other real property with a value of at least twenty-five thousand dollars ($25,000) is a sale or other transfer to a private entity that operates or is established to operate for profit, the proposed disposition shall be subject to upset bids. The Department of Administration shall adopt a procedure for upset bids that is based on the upset bid procedure set forth in Part 2 of Article 29A of Chapter 1 of the General Statutes.

(c) Expired effective September 1, 2007."

SECTION 2. This act becomes effective October 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 1

HOUSE BILL 1035

Short Title:	UNC Performance & Payment Bond Modification.	(Public)
Sponsors:	Representatives Glazier, Goforth, McLawhorn, Yongue (Primary Sponsors); Harrison, Insko, Lucas, and Parmon.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PERFORMANCE AND PAYMENT BONDING REQUIREMENT FOR CONSTRUCTION PROJECT CONTRACTS AWARDED BY THE UNIVERSITY OF NORTH CAROLINA THAT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 44A-26 reads as rewritten:

"**§ 44A-26. Bonds required.**

(a) When the total amount of construction contracts awarded for any one project exceeds three hundred thousand dollars ($300,000), a performance and payment bond as set forth in (1) and (2) is required by the contracting body from any contractor or construction manager at risk with a contract more than fifty thousand dollars ~~($50,000).~~($50,000); provided that, for The University of North Carolina and its constituent institutions, a performance and payment bond is required in accordance with this subsection if the total amount of construction contracts awarded for any one project exceeds five hundred thousand dollars ($500,000). In the discretion of the contracting body, a performance and payment bond may be required on any construction contract as follows:

(1) A performance bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such bond shall be solely for the protection of the contracting body that is constructing the project.

(2) A payment bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor for which a contractor, subcontractor, or construction manager at risk is liable.

(b) The performance bond and the payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the construction contract."

SECTION 2. This act becomes effective July 1, 2009, and applies to construction contracts awarded on or after that date.

HOUSE BILL 1088

Short Title:	DHHS/Procurement Methods.	(Public)
Sponsors:	Representatives Braxton; Harrison, Jones, and Parmon.	
Referred to:	Mental Health Reform, if favorable, State Government/State Personnel.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FROM THE PURCHASES AND CONTRACTS LAW PURCHASES BY CERTAIN MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-56 reads as rewritten:

"**§ 143-56. Certain purchases excepted from provisions of Article.**

Unless as may otherwise be ordered by the Secretary of Administration, the purchase of supplies, materials and equipment through the Secretary of Administration shall be mandatory in the following cases:

(1) Published books, manuscripts, maps, pamphlets and periodicals.

(2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs, and others as may be classified by the Secretary of Administration.

Purchase through the Secretary of Administration shall not be mandatory for information technology purchased in accordance with Article 3D of Chapter 147 of the General Statutes, for a purchase of supplies, materials or equipment for the General Assembly if the total expenditures is less than the expenditure benchmark established under the provisions of G.S. 143-53.1, for group purchases made by ~~hospitals~~ hospitals, developmental centers, neuromedical treatment centers, and alcohol and drug abuse treatment centers through a competitive bidding purchasing program, as defined in G.S. 143-129, by the University of North Carolina Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S. 116-37(a) (4), by the University of North Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-37(a) (4), or by East Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

All purchases of the above articles made directly by the departments, institutions and agencies of the State government shall, whenever possible, be based on competitive bids. Whenever an order is placed or contract awarded for such articles by any of the departments, institutions and agencies of the State government, a copy of such order or contract shall be forwarded to the Secretary of Administration and a record of the competitive bids upon which it was based shall be retained for inspection and review."

SECTION 2. This act is effective when it becomes law and applies to purchases made on and after that date.

HOUSE BILL 1088: DHHS/Procurement Methods

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 11, 2009
Introduced by:	Rep. Braxton	**Prepared by:**	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: ***House Bill 1088 amends the State purchase and contract laws to exempt group purchases made by developmental centers, neuromedical treatment centers, and alcohol and drug abuse treatment centers through a competitive bidding purchasing program.***

CURRENT LAW:

G.S. 143-56 provides for exemptions from the requirements of Article 3 of Chapter 143, Purchases and Contracts. Currently there are exemptions from the requirement of purchase through the Secretary of Administration for information technology, the purchase of supplies by the General Assembly if the total is under the benchmark set by G.S. 143-53.1, and for group purchases made by hospitals through a competitive bidding purchasing program, and by the UNC Health Care System and others. All purchases of exempted articles made directly by the departments or institutions are to be based on competitive bids whenever possible. If an order is placed, or a contract awarded by the departments or institutions directly, a copy of the order or contract is to be forwarded to the Secretary and a record of e competitive bids retained for inspection and review.

G.S. 143-1299e)(3) defines a competitive bidding group purchasing program as a formally organized program that offers competitively obtained purchasing services at discount prices to two or more public agencies.

BILL ANALYSIS:

House Bill 1088 adds developmental centers, neuromedical treatment centers, and alcohol and drug abuse treatment centers to the list of institutions that may make group purchases of supplies, materials, and equipment directly through a competitive bidding purchasing program as defined in G.S. 143-129.

EFFECTIVE DATE:

House Bill 1088 would become effective when it becomes law and applies to purchases made on and after that date.

H1088-SMSH-114(e1) v1

Barbara Riley made substantial contributions to this summary.

HOUSE BILL 1082*

Short Title:	Repair & Renovation Fund Formula.	(Public)
Sponsors:	Representative Crawford.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

April 6, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A STATUTORY FORMULA FOR THE DISTRIBUTION OF REPAIR AND RENOVATION FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143C-4-3 is amended by adding a new subsection to read:

"(c1) Allocation of Funds. – Of the funds in the Reserve for Repairs and Renovations Account, fifty percent (50%) shall be allocated to the Board of Governors of The University of North Carolina for repairs and renovations to be used pursuant to subsection (b) of this section and in accordance with guidelines developed in The University of North Carolina Funding Allocation Model for Reserve for Repairs and Renovations, and fifty percent (50%) shall be allocated to the Office of State Budget and Management for repairs and renovations.

Notwithstanding any other provision of this section, the Board of Governors may also use funds from its allocation under this section for repairs and renovation of projects that are not supported from the General Fund if the Board of Governors determines that sufficient funds are not available from other sources and that conditions warrant General Fund assistance; however, the funds may only be used for the same types of projects as listed in subsection (b) of this section. Any such finding shall be included in the Board of Governor's submission to the Joint Legislative Commission on Governmental Operations on the proposed allocation of funds.

The Board of Governors and the Office of State Budget and Management shall consult with the Joint Legislative Commission on Governmental Operations prior to the allocation or reallocation of these funds."

SECTION 2. This act becomes effective July 1, 2009.

HOUSE BILL 1249

Short Title:	Deep Vein Thrombosis Awareness Month.	(Public)
Sponsors:	Representatives Harrell, England (Primary Sponsors); Coates, Jackson, Lucas, Martin, Neumann, Stewart, and Wray.	
Referred to:	Health, if favorable, State Government/State Personnel.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING DEEP VEIN THROMBOSIS AWARENESS MONTH.

Whereas, deep vein thrombosis occurs when a blood clot forms in one of the large veins, usually in the lower limbs, which leads to partially or completely blocked circulation and may result in a fatal pulmonary embolism; and

Whereas, up to 300,000 Americans die each year from pulmonary embolisms, the majority of which result from deep vein thrombosis; and

Whereas, pulmonary embolism causes more deaths each year than breast cancer and Acquired Immune Deficiency Syndrome (AIDS) combined and is the leading cause of maternal death associated with childbirth; and

Whereas, some of the risk factors for deep vein thrombosis include cancer and certain heart or respiratory diseases; and

Whereas, deep vein thrombosis can also be triggered by hospitalization, pregnancy, obesity, or restricted mobility caused by long-distance travel; and

Whereas, according to a survey conducted by the American Public Health Association, 74% of Americans are unaware of deep vein thrombosis; and

Whereas, deep vein thrombosis is a serious but preventable medical condition that affects approximately 2,000,000 Americans every year, and pulmonary embolism may be the most preventable cause of hospital death in the United States; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Deep Vein Thrombosis Awareness Month.**

The month of March of each year is designated as Deep Vein Thrombosis Awareness Month in North Carolina."

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

HOUSE BILL 1249:
Deep Vein Thrombosis Awareness Month

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 12, 2009
Introduced by:	Reps. Harrell, England	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	First Edition		Legislative Analyst

SUMMARY: SUMMARY: House Bill 1249 would designate March as Deep Vein Thrombosis Awareness Month in North Carolina.

CURRENT LAW: Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designates the following as Special Days in North Carolina:

Arbor Week	The week in March containing March 15
American Family Day	The first Sunday in August
Indian Solidarity Week	The last full week in September
Prisoner of War Day	April 9
Pearl Harbor Remembrance Day	December 7
Disability History and Awareness Month	October

BILL ANALYSIS: House Bill 1249 would add a new section in Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designating March of each year as Deep Vein Thrombosis Awareness Month in North Carolina.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: According to a survey conducted by the American Public Health Association, 74% of Americans are unaware of deep vein thrombosis.

Deep vein thrombosis occurs when a blood clot forms in one of the large veins, usually in the lower limbs, which leads to partially or completely blocked circulation and may result in a fatal pulmonary embolism. Deep vein thrombosis is a serious but preventable medical condition that affects approximately 2,000,000 Americans every year, and pulmonary embolism may be the most preventable cause of hospital death in the United States.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1251
PROPOSED COMMITTEE SUBSTITUTE H1251-PCS50679-SF-26

Short Title: Cancer Screening Awareness Month. (Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING JUNE AS CANCER SCREENING AWARENESS MONTH.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Cancer Screening Awareness Month.**

The month of June of each year is designated as Cancer Screening Awareness Month in North Carolina."

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

HOUSE BILL 1251:
Cancer Screening Awareness Month

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 12, 2009
Introduced by:	Reps. Harrell, Burris-Floyd, England, Holliman	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	PCS to First Edition H1251-CSSF-26		

SUMMARY: ***The Proposed Committee Substitute to House Bill 1251 would designate June as Cancer Screening Awareness Month in North Carolina.***

The PCS would make a technical change.

CURRENT LAW: Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designates the following as Special Days in North Carolina:

Arbor Week	The week in March containing March 15
American Family Day	The first Sunday in August
Indian Solidarity Week	The last full week in September
Prisoner of War Day	April 9
Pearl Harbor Remembrance Day	December 7
Disability History and Awareness Month	October

BILL ANALYSIS: House Bill 1251 would add a new section in Chapter 103 of the General Statutes (Sundays, Holidays and Special Days) designating June of each year as Cancer Screening Awareness Month in North Carolina.

EFFECTIVE DATE: The bill would become effective when it becomes law.

HOUSE BILL 1251

Short Title:	Cancer Screening Awareness Month.	(Public)
Sponsors:	Representatives Harrell, Burris-Floyd, England, Holliman (Primary Sponsors); Adams, K. Alexander, M. Alexander, Avila, Barnhart, Blackwell, Bordsen, Bryant, Cleveland, Cotham, Current, Dickson, Dockham, Dollar, Earle, Faison, Fisher, Folwell, Frye, Gibson, Glazier, Goforth, Grady, Guice, Harrison, Howard, Hurley, Jackson, Jeffus, Johnson, Justice, Justus, Lucas, Luebke, Mackey, Martin, McCormick, McElraft, Neumann, Pierce, Rapp, Sager, Setzer, Stevens, Stewart, Stiller, Tarleton, Wainwright, R. Warren, Whilden, Wiley, and Wray.	
Referred to:	Health, if favorable, State Government/State Personnel.	

April 9, 2009

A BILL TO BE ENTITLED

AN ACT ESTABLISHING JUNE AS CANCER SCREENING AWARENESS MONTH.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 103 of the General Statutes is amended by adding a new section to read:

"**§ 103-12. Cancer Awareness Month.**

The month of June of each year is designated as Cancer Screening Awareness Month in North Carolina."

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

VISITOR REGISTRATION SHEET

STATE GOVT / Personnel — 5/12/09 2 pm

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
David Crawford	AIA NC
Greg Young	Town of Boone
Dick Miller	Town of Boone
Pam Furgiuele	Town of Boone
Matt Harrell	Town of Boone
Anita Watkins	UNC GA
DAVID DUNN	UNC CLT 49 NINERS!
Dwayne Pinkney	UNC - Chapel Hill
Daniel Auburn	Electric Cities of N.C., Inc.
Amanda Arrington	ASUS
Dan Conrad	NCCN

VISITOR REGISTRATION SHEET

STATE GOV / STATE PERSONNEL — 5-12-09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Evelyn Hawthorne	OSHR
[illegible]	GOVERNOR'S OFFICE
Jennifer Bumgarner	GOV's Office
Roz Saw	NCDCC
Christy Agner	Dept. of Admin.
[illegible] TAYLOR	NC DPI
Ray Starling	NC Dept of Agriculture & Consumer Services
Kathy Hankins	Progress Energy
[illegible] Joyce	NCASA
Joy Hicks	NCDAC&S
KEITH HARRISON	NC DCR

VISITOR REGISTRATION SHEET

State Gov't / Personnel 3/11/09

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Melanie Sellers	DCR
Heather Barrett	Hunton & Williams
Anna Carter	DHHS / DCD
Janice Fain	DHHS DCD
Jennifer Willis	NCCCS
Kim Dayl	"
JC Scott	WTCC
RL Nelson	UNC
EW Schut	UNC
TERRANCE BRANCH	UNC
THOMAS HUNTER	NC COMMUNITY COLLEGES

VISITOR REGISTRATION SHEET

STATE GOVERNMENT / PERSONNEL 5/12/09

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
KARL ROVE	EX - POTUS
Conor Brockett	ncsba
[signature] Harrison	WCPSS
Kelli Kukena	NCLM
Renee Wimbish	NCCA
Nick Fountain	Young Moore
Jon Cenv	PHCC of NC
Shallini Sankaran	Commerce - Science & Tech
Dale DAWSON	State Board of Examiners of Plumbing, Heating + F.S. Cont.
Stan Williams	NCS
- THE EFFRON	State Energy office

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	NC Association of County Commissioners

VISITOR REGISTRATION SHEET

State Govt / Personnel — 5-12-09 — 6:30p

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Erin Schweitzer	UNC
Anita Watkins	UNC
Rob Nelson	UNC
Shereaia Wilson	DHHS
Sharnese Ransome	DHHS

Minutes
House Committee on State Government/State Personnel
Wednesday, May 13, 2009

The House Committee on State Government/State Personnel met around Chairman Winkie Wilkins' desk after Session on Wednesday, May 13, 2009. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell and Mobley and Representatives Justus, Mackey and Randleman. Also present were staff attorneys Theresa Matula and Shirley Iorio and Committee Assistant Nancy Brantley.

The following bill was considered:

HB 617, Limit Outside Work for DENR/Local Staff. By motion of Vice Chairman Harrell, the PCS was adopted for discussion. Representative Allen explained the bill, which would prevent potential conflicts of interest by persons employed by the State or acting as agents of the State within local health Departments. Following discussion, Representative Sager moved for a favorable report as to Committee Substitute #2, unfavorable as to Committee Substitute Bill #1. The motion carried.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

5-13-09

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 617 A BILL TO BE ENTITLED AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS.

☒ With a favorable report as to 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 2009

H D

HOUSE BILL 617
Committee Substitute Favorable 5/11/09
PROPOSED COMMITTEE SUBSTITUTE H617-PCS30395-RI-26

Short Title: Limit Outside Work for DENR/Local Staff. (Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-339.1. Employment limitations to avoid conflict of interest.**

(a) Persons employed by the State or a local health department, or any person under contract with the State or a local health department, to act as an authorized agent of the Department to enforce rules of the Commission or a local health department regarding wastewater sites or wastewater systems shall be subject to employment limitations as provided in this section. Such persons shall not evaluate, consult, provide service maintenance, or perform any other work activity for any wastewater site or any wastewater system regulated by the Department under rules adopted by the Commission or a local board of health unless such activity is performed in the course of their employment by, or their contractual relationship with, the State, a local health department, or a joint agency established under G.S. 130A-343.1.

(b) The limitations under subsection (a) of this section apply to evaluating, consulting, providing service maintenance, and any other work activity performed as any of the following:

(1) A soil scientist licensed under Chapter 89F of the General Statutes evaluating any land proposed for any subsurface wastewater system.

(2) A water pollution control system operator certified under Article 3 of Chapter 90A of the General Statutes.

(3) An on-site wastewater contractor or inspector certified under Article 5 of Chapter 90A of the General Statutes.

(4) A professional engineer licensed under Chapter 89C of the General Statutes."

SECTION 2. This act is effective when it becomes law and applies to acts that occur on or after that date.

HOUSE BILL 617
Committee Substitute Favorable 5/11/09

Short Title: Limit Outside Work for DENR/Local Staff. (Public)

Sponsors:

Referred to:

March 17, 2009

A BILL TO BE ENTITLED

AN ACT TO PREVENT POTENTIAL CONFLICTS OF INTEREST BY PERSONS EMPLOYED BY THE STATE OR ACTING AS AGENTS OF THE STATE WITHIN LOCAL HEALTH DEPARTMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 11 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-339.1. Employment limitations to avoid conflict of interest.**

(a) Persons employed by the State or a local health department, or any person under contract with the State or a local health department, to act as an authorized agent of the Department to enforce rules of the Commission or a local health department regarding wastewater sites or wastewater systems shall be subject to employment limitations as provided in this section. Such persons shall not evaluate, consult, provide service maintenance, or perform any other work activity for any wastewater site or any wastewater system regulated by the Department under rules adopted by the Commission or a local board of health unless such activity is performed in the course of their employment by, or their contractual relationship with, the State, a local health department, or a joint agency established under G.S. 130A-343.1.

(b) The limitations under subsection (a) of this section apply to evaluating, consulting, providing service maintenance, and any other work activity performed as any of the following:

(1) A soil scientist licensed under Chapter 89F of the General Statutes evaluating any land proposed for any subsurface water system.

(2) A water pollution control system operator certified under Article 3 of Chapter 90A of the General Statutes.

(3) An on-site wastewater contractor or inspector certified under Article 5 of Chapter 90A of the General Statutes.

(4) A professional engineer licensed under Chapter 89C of the General Statutes."

SECTION 2. This act is effective when it becomes law and applies to acts that occur on or after that date.

Minutes
House Committee on State Government/State Personnel
Thursday, May 14, 2009

The House Committee on State Government/State Personnel met around Chairman Winkie Wilkins' desk after Session on Thursday, May 14, 2009, at 12:10 PM. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Randleman, Sager and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio and Committee Assistant Nancy Brantley.

The following bills were considered:

HB 1429, Clarify the New NC Drought Response. Representative Lewis explained his bill. Following discussion, Representative Justus moved for a favorable report. The motion carried.

HB 1009, End DOA Supervision of Local Veterans Service. Representative Bell explained the bill, which would end Department of Administration supervision of employees of counties, cities, and towns that are engaged in veterans service. The bill would grant authority to the governing body of any county, city of town to appropriate such amounts as it may deem necessary to provide a veterans service program. The program would be operated in affiliation with the Department of Administration. Representative Mobley moved for a favorable report. The motion carried.

The meeting adjourned at 12:15 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
HB 1429 A BILL TO BE ENTITLED AN ACT TO MAKE CERTAIN CLARIFICATIONS REGARDING THE IMPROVEMENTS TO DROUGHT PREPAREDNESS AND RESPONSE IN NORTH CAROLINA MADE BY THE 2008 SESSION OF THE GENERAL ASSEMBLY.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 1009 A BILL TO BE ENTITLED AN ACT TO END DEPARTMENT OF ADMINISTRATION SUPERVISION OF EMPLOYEES OF COUNTIES, CITIES, AND TOWNS THAT ARE ENGAGED IN VETERANS 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 _____.

HOUSE BILL 1429

Short Title:	Clarify the New NC Drought Response.	(Public)
Sponsors:	Representative Lewis.	
Referred to:	Water Resources and Infrastructure, if favorable, State Government/State Personnel.	

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN CLARIFICATIONS REGARDING THE IMPROVEMENTS TO DROUGHT PREPAREDNESS AND RESPONSE IN NORTH CAROLINA MADE BY THE 2008 SESSION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-350(7) reads as rewritten:

"(7) "Water shortage emergency" means a water shortage resulting from prolonged drought, contamination of the water supply, damage to water infrastructure, or other unforeseen causes that presents an imminent and severe threat to public health, safety, and welfare or to the environment."

SECTION 2. G.S. 143-355.2(a)(4) is repealed.

SECTION 3. G.S. 143-355.2(h) reads as rewritten:

"(h) Water conservation measures imposed by a unit of local government that provides public water service or by a large community water system may be more stringent than the minimum water conservation measures required under this section. This subsection shall not be construed to authorize a unit of government, public water supply system, or private water supply system to regulate water use from a well located outside of its jurisdiction, a well not connected to its water system, or any other private well."

SECTION 4. G.S. 143-355.3(b) reads as rewritten:

"(b) Water Shortage Emergency Powers and Duties. – Whenever, pursuant to this Article, the Governor declares the existence of a water shortage emergency within a particular area of the State, the Secretary shall have the powers and duties set out in subdivisions (1), (2), and (3) of this subsection. These powers may only be exercised within the designated water shortage emergency area, after the Secretary has consulted with the affected water systems and determined that the water shortage emergency cannot be effectively managed in the absence of exercising these powers, and only for the period of the water shortage emergency. Under these circumstances, the Secretary has the power and duty to:

(1) Require any water system that has water supply in excess of that required to meet the essential water uses of its customers to provide water to a water system experiencing a water shortage emergency. The Secretary shall give preference to diversion of water from a water system within the same river basin as the water system that is experiencing a water shortage emergency. A diversion of water that requires a certificate under G.S. 143-215.22L shall meet the requirements of that section. The amount required to be supplied shall be limited to the amount necessary to supply essential water uses

within the receiving system. The required diversion of waters shall cease upon the termination of the water shortage emergency.

(2) Adopt rules governing the conservation and use of water within the water shortage emergency area as shall be necessary to maintain essential water use within the water shortage emergency area. Before such rules and regulations shall become effective, they shall be published in two consecutive issues of a daily newspaper generally circulated in the emergency area. This subdivision shall not be construed to authorize a unit of government, public water supply system, or private water supply system to regulate water use from a well located outside of its jurisdiction, a well not connected to its water system, or any other private well.

(3) Adopt rules governing conservation and use of water within the service area of the water system from which water is being diverted as shall be necessary to maintain essential water uses in the system while supplying water to the water shortage emergency area. This subdivision shall not be construed to authorize a unit of government, public water supply system, or private water supply system to regulate water use from a well located outside of its jurisdiction, a well not connected to its water system, or any other private well."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1009
Committee Substitute Favorable 5/12/09

Short Title: End DOA Supervision of Local Veterans Service. (Public)

Sponsors:

Referred to:

April 2, 2009

A BILL TO BE ENTITLED

AN ACT TO END DEPARTMENT OF ADMINISTRATION SUPERVISION OF EMPLOYEES OF COUNTIES, CITIES, AND TOWNS THAT ARE ENGAGED IN VETERANS SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 165-6(8) reads as rewritten:

"(8) It shall be the duty of the Department to ~~train, supervise~~ train and assist the employees of any county, ~~city or town~~ city, town, or Indian tribe who are engaged in veterans service. Authority is hereby granted the governing body of any county, city or town to appropriate such amounts as it may deem necessary to provide a veterans service program and the expenditure of such funds is hereby declared to be for a public purpose; such program shall be operated in affiliation with this Department.~~Department and under its supervision as set forth above.~~"

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

HOUSE BILL 1009:
End DOA Supervision of Local Veterans Service

2009-2010 General Assembly

Committee:	House Homeland Security, Military, and Veterans Affairs, if favorable, State Government/State Personnel	**Date:**	May 7, 2009
Introduced by:	Rep. Bell	**Prepared by:**	Hal Pell Committee Counsel
Analysis of:	PCS to First Edition H1009-CSRK-43		

SUMMARY: ***This act amends the statutory powers and duties of the Department of Administration to remove the duty of supervision of employees at local veterans service offices. This act is effective when it becomes law.***

BILL ANALYSIS: Current law requires the Department of administration to "train, supervise, and assist" employees of local veterans service offices. The act removes the supervision requirement, but retains the requirement that local offices operate in affiliation with the Department. The law will still require the Department to train and assist the local offices, to include Indian tribe offices.

EFFECTIVE DATE: This act is effective when it becomes law.

Minutes
House Committee on State Government/State Personnel
Tuesday, May 19, 2009

The House Committee on State Government/State Personnel met on Tuesday, May 19, 2009, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley and Yongue. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines and Toussaint Avent.

Chairman Wilkins introduced the Pages for the meeting: Kathryn Vance of Iredell County, sponsored by Representative Whilden; Madison Marston of New Hanover County, sponsored by Representative Justice; Auburn Lance of Randolph County, sponsored by Representative Hurley; and Ivel Posada of Mecklenburg County, sponsored by Representative Gulley.

The following bills were considered:

SB 332, Zoo and Zoo Funds Modifications. By motion of Representative Wiley, the proposed committee substitute (PCS) was adopted for discussion. Representative Brunstetter, the bill's sponsor, explained the bill. He noted that the bill was identical to HB 321, which received a favorable report from this Committee. Representative Justus moved for a favorable report as to the House committee substitute bill, which changed the title, unfavorable as to the original bill, and recommendation that the House committee substitute bill be re-referred to the Committee on Commerce, Small Business, and Entrepreneurship. The motion carried.

SB 385, Macon Subdivisions. Senator Snow explained that this bill would allow Macon County to exempt from its subdivision-regulation ordinance a "family subdivision." The bill would add Macon County to the exemption created in 1989 for Henderson County. Following discussion of the bill, Representative Wiley moved for a favorable report. The motion carried.

SB 691, Tax Info Disclosure to State Treasurer. Senator Dorsett explained her bill. Following discussion, Representative Sutton moved for a favorable report and recommendation that the bill be re-referred to the Committee on Finance. The motion carried.

Chairman Wilkins adjourned the meeting at 2:20 PM

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, May 19, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

SB 332	**Zoo and Zoo Funds Modifications.** **Senator Brunstetter**
SB 385	**Macon Subdivisions.** **Senator Snow**
SB 484	**Auditor Ex Officio Duties.** Bill not considered **Senator Clodfelter**
SB 691	**Tax Info Disclosure to State Treasurer.** **Senator Dorsett**

II. Discussion

III. Adjourn

5-19 mtg

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

SB 332 A BILL TO BE ENTITLED AN ACT TO MODIFY THE PURCHASING AND CONTRACTING AUTHORITY BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES ON BEHALF OF THE NORTH CAROLINA ZOOLOGICAL PARK; TO EXPAND THE UMSTEAD EXEMPTION FOR THE PARK; TO IMPROVE THE ADMINISTRATION OF PARK OPERATIONS; TO REQUIRE A REPORTING OF THE PROGRESS AND IMPLEMENTATION OF THE MANDATES OF THIS ACT; AND TO ESTABLISH THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE.

which changes the title

☒ With a favorable report as to the House committee substitute bill, unfavorable as to the original bill, and recommendation that the House committee substitute bill be re-referred to the Committee on COMMERCE, SMALL BUSINESS, AND ENTREPRENEURSHIP.

(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.

5-19-09

Haire

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2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

SB 385 A BILL TO BE ENTITLED AN ACT TO MODIFY THE AUTHORITY OF MACON COUNTY TO REGULATE THE SUBDIVISION OF LAND.

☒ 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 _____.

5-19-09

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

SB 691 A BILL TO BE ENTITLED AN ACT TO PERMIT DISCLOSURE OF CERTAIN TAX INFORMATION OF LOCAL GOVERNMENTS TO THE DEPARTMENT OF STATE TREASURER.

☒ 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 _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 332*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S332-PCS15285-SHx-23

Short Title: Zoo and Zoo Funds Modifications. (Public)

Sponsors:

Referred to:

February 26, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PURCHASING AND CONTRACTING AUTHORITY BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES ON BEHALF OF THE NORTH CAROLINA ZOOLOGICAL PARK; TO EXPAND THE UMSTEAD EXEMPTION FOR THE PARK; TO IMPROVE THE ADMINISTRATION OF PARK OPERATIONS; TO REQUIRE A REPORTING OF THE PROGRESS AND IMPLEMENTATION OF THE MANDATES OF THIS ACT; TO ESTABLISH THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE AND TO ANNEX CERTAIN PROPERTY OWNED BY THE NC ZOOLOGICAL SOCIETY INTO THE CITY OF ASHEBORO.

The General Assembly of North Carolina enacts:

PART I: PURCHASING AND CONTRACTING AUTHORITY ON BEHALF OF THE NORTH CAROLINA ZOOLOGICAL PARK

SECTION 1.1. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.8A. Purchase of certain goods and services for the North Carolina Zoological Park.**

(a) Exemption. – The North Carolina Zoological Park is a State entity whose primary purpose is the attraction of, interaction with, and education of the public regarding issues of global conservation, ecological preservation, and scientific exploration, and that purpose presents unique challenges requiring greater flexibility and faster responsiveness in meeting the needs of and creating the attractions for the Park. Accordingly, the Department of Environment and Natural Resources may use the procedure set forth in this section, in addition to or instead of any other procedure available under North Carolina law, to contract with a non-State entity on behalf of the Park for the acquisition of goods and services where: (i) the contract directly results in the generation of revenue for the State of North Carolina; or (ii) the use of the acquired goods and services by the Park results in increased revenue or decreased expenditures for the State of North Carolina.

(b) Limitation. – Contracts executed pursuant to the exemption of subsection (a) of this section may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

(1) Notice of the request for proposals shall be given in accordance with G.S. 143-129(b).

(2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals.

(c) Procurement Methods. – The Department may use procurement methods set forth in G.S. 143-135.9 in developing and evaluating requests for proposals under this section. The Department may negotiate with any proposer in order to obtain a final contract that best meets the needs of the awarding authority. Negotiations allowed under this section shall not alter the contract beyond the scope of the original request for proposals in a manner that: (i) deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and (ii) would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.

(d) Promotional Rights. – Subject to the approval of the Department, a non-State entity awarded a contract that results in increased revenue or decreased expenditures for the Park may advertise, announce, or otherwise publicize the provision of services pursuant to award of the contract."

SECTION 1.2. G.S. 143-135.9 reads as rewritten:

"**§ 143-135.9. ~~"Best Value" information technology procurements.~~Best Value procurements.**

(a) ~~For purposes of this section:~~Definitions. – The following definitions apply in this section:

(1) ~~"Best Value" procurement means the~~Best Value procurement. – The selection of a contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.

(2) ~~"Government-Vendor Partnership" means a~~Government-Vendor partnership. – A mutually beneficial contractual relationship between State government and a contractor, wherein the two share risk and reward, and value is added to the procurement of ~~complex technology.~~needed goods or services.

(3) ~~"Information technology" includes electronic~~ Information technology. – Electronic data processing and telecommunications goods and services, microelectronics, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design and/or redesign of business processes.

(4) ~~"Solution-Based Solicitation" means a~~Solution-Based solicitation. – A solicitation in which the requirements are stated in terms of how the product or service being purchased should accomplish the business objectives, rather than in terms of the technical design of the product or service.

(b) Intent. – The intent of ~~"Best Value" Information Technology~~Best Value procurement is to enable contractors to offer and the agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of a procurement. ~~Business process reengineering, system design, and technology implementation may be combined into a single solicitation.~~

(c) Information Technology. – The acquisition of information technology by the State of North Carolina shall be conducted using the ~~"Best Value"~~Best Value procurement method. For purposes of this section, business process reengineering, system design, and technology implementation may be combined into a single solicitation. For acquisitions which the procuring agency and the Division of Purchase and Contracts or the Office of Information Technology Services, as applicable, deem to be highly complex or determine that the optimal solution to the business problem at hand is not known, the use of Solution-Based Solicitation and Government-Vendor Partnership is authorized and encouraged. Any county, city, town, or subdivision of the State may acquire information technology pursuant to this section.

~~(d) Any county, city, town or subdivision of the State may acquire information technology pursuant to this section.~~

(e) North Carolina Zoological Park. – The acquisition of goods and services under a contract entered pursuant to the exemption of G.S. 143-129.8A(a) by the Department of Environment and Natural Resources on behalf of the North Carolina Zoological Park may be conducted using the Best Value procurement method. For acquisitions which the procuring agency deems to be highly complex, the use of Government-Vendor partnership is authorized."

PART II: EXPANSION OF UMSTEAD ACT EXEMPTION FOR THE NORTH CAROLINA ZOOLOGICAL PARK

SECTION 2.1. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(b) The provisions of subsection (a) of this section shall not apply to:

...

(26) The North Carolina Zoological Park."

SECTION 2.2. G.S. 66-58(c)(18) is repealed.

PART III: ADMINISTRATIVE IMPROVEMENTS TO THE NORTH CAROLINA ZOOLOGICAL PARK OPERATIONS

SECTION 3.1. The Secretary of the Department of Environment and Natural Resources shall work with the North Carolina Zoological Park to do the following:

(1) Examine all purchasing and contracting policies and procedures. The Department shall identify opportunities for delegating purchasing and contracting responsibilities to the Park where appropriate. For purchases and contracts involving promotion and advertising, the Department shall consider increasing the amount over which the Park must solicit competitive bids or quotes to five thousand dollars ($5,000).

(2) Continue negotiations with the Office of Information Technology Services regarding the implementation of Article 3D of Chapter 147 of the General Statutes.

(3) Identify and address any other administrative concerns of the Park.

SECTION 3.2. The Secretary of the Department of Environment and Natural Resources shall review the current Memorandum of Understanding between the Department and the North Carolina Zoological Society. The Secretary shall work with the Society to make appropriate revisions to or replace the Memorandum, as needed.

PART IV: REPORT

SECTION 4. The Department of Environment and Natural Resources shall report to the North Carolina Zoological Park Funding and Organization Study Committee and to the Fiscal Research Division of the Legislative Services Office on the progress and implementation of Parts I and III of this act no later than January 15, 2010.

PART V: ESTABLISHMENT OF COMMITTEE

SECTION 5.1. Committee Established. – The North Carolina Zoological Park Funding and Organization Study Committee is hereby established.

SECTION 5.2. Membership. – The Committee shall consist of 22 members as follows:

(1) Five members of the Senate appointed by the President Pro Tempore of the Senate.

(2) Five members of the House appointed by the Speaker of the House of Representatives.

(3) The Secretary of Environment and Natural Resources, or the Secretary's designee.

(4) The Director of the Zoological Park, or the Director's designee.

(5) The Secretary of Commerce, or the Secretary's designee.

(6) The Executive Director of the Division of Tourism, Film and Sports Development of the Department of Commerce, or the Executive Director's designee.

(7) The Chair of the North Carolina Zoological Park Council, or the Chair's designee.

(8) The Chair of the board of directors of the North Carolina Zoological Society, Inc., or the Chair's designee.

(9) Two additional representatives of the Zoo Society Board, who may be comprised of current or former members, one appointed by the President Pro Tempore of the Senate upon recommendation of the Chair of the Zoo Society Board, one appointed by the Speaker of the House of Representatives upon recommendation of the Chair of the Zoo Society Board.

(10) Two representatives from the public at large appointed by the President Pro Tempore of the Senate.

(11) Two representatives from the public at large appointed by the Speaker of the House of Representatives.

SECTION 5.3. Cochairs. – The Committee shall have three cochairs, one designated by the President Pro Tempore of the Senate and two designated by the Speaker of the House of Representatives from among their respective appointees. The Committee shall meet upon the call of the cochairs.

SECTION 5.4. Quorum. – A quorum of the Committee shall consist of 10 members.

SECTION 5.5. Vacancies. – Any vacancy on the Committee shall be filled by the original appointing authority.

SECTION 5.6. Purpose and Duties. – The Committee shall study: (i) funding issues associated with the Zoological Park, including current and expected capital and operational needs, current sources of revenue, and potential funding mechanisms; and (ii) the current organizational structure of the Zoological Park, and other potential organizational structures, including, but not limited to, reorganization as an authority, as a private nonprofit corporation, or other entity to determine which organizational structure would most effectively achieve the mission of the Zoological Park.

SECTION 5.7. Expenses of Members. – Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 5.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Committee to aid in its work.

SECTION 5.9. Consultants. – The Committee may hire consultants to assist with the study as provided in G.S. 120-32.02(b).

SECTION 5.10. Meetings. – The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 5.11. Report. – The Committee shall report its findings and recommendations to the 2010 Regular Session of the 2009 General Assembly and the Environmental Review Commission on or before May 1, 2010, at which time the Committee shall terminate.

SECTION 5.12. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this act.

PART VI: ANNEXATION

SECTION 6. The following described property, owned by The North Carolina Zoological Society, Inc., which shall be considered satellite corporate limits, is added to the corporate limits of the City of Asheboro:

Tract 1:

Grant Township, Randolph County, North Carolina:

BEGINNING at a computed point located at the intersection of the southern margin of the 60-foot right-of-way for Old Cox Road (North Carolina Secondary Road 2834) with the western margin of the 60-foot right-of-way for Lions Rest Road (North Carolina Secondary Road 2837); thence from the said beginning point along the western margin of the right-of-way for Lions Rest Road the following courses and distances: South 47 degrees 23 minutes 52 seconds West 71.83 feet to a computed point; thence South 38 degrees 02 minutes 09 seconds West 250.53 feet to a computed point; thence the following course and distance along the Michael L. Spoon and Joy W. Spoon property described in the Randolph County Public Registry in Deed Book 1578 at Page 223 and further described as Tract # 4 on a plat recorded in Plat Book 55, Page 59, Randolph County Public Registry: North 02 degrees 19 minutes 39 seconds East 582.77 feet to a computed point on the southern margin of the right-of-way for Old Cox Road; thence along the southern margin of the right-of-way for Old Cox Road the following courses and distances: South 26 degrees 15 minutes 50 seconds East 196.77 feet to a computed point; thence South 29 degrees 59 minutes 18 seconds East 142.30 feet to a computed point; thence South 34 degrees 42 minutes 28 seconds East 44.57 feet to the point and place of the BEGINNING, and containing 1.24 acres of land, more or less.

This description is in accordance with a map entitled "Satellite Annexation Map For City of Asheboro(,) Property of THE NORTH CAROLINA ZOOLOGICAL SOCIETY, INC." that was prepared by the City of Asheboro Engineering Department. This annexation map, which is identified by the engineering department as Job # 09006, is dated February 11, 2009. The property lines drawn on this annexation map were taken from Randolph County Tax Maps as of February 11, 2009.

Tract 2:

Grant Township, Randolph County, North Carolina:

BEGINNING at a computed point located at the intersection of the southern margin of the 60-foot right-of-way for Old Cox Road (North Carolina Secondary Road 2834) with the eastern margin of the 60-foot right-of-way for Lions Rest Road (North Carolina Secondary Road 2837); thence from the said beginning point along the southern margin of the right-of-way for Old Cox Road the following courses and distances: South 40 degrees 51 minutes 39 seconds East 80.82 feet to a computed point; thence South 45 degrees 17 minutes 21 seconds East 122.60 feet to a computed point; thence South 50 degrees 58 minutes 50 seconds East 460.64 feet to a computed point; thence South 47 degrees 25 minutes 21 seconds East 138.01 feet to a computed point; thence South 42 degree 32 minutes 42 seconds East 76.35 feet to a computed

point; thence South 33 degrees 47 minutes 51 seconds East 55.50 feet to a computed point; thence South 25 degrees 39 minutes 17 seconds East 56.30 feet to a computed point; thence South 18 degree 37 minutes 48 seconds East 359.21 feet to a computed point; thence South 21 degrees 39 minutes 35 seconds East 103.29 feet to a computed point; thence South 31 degrees 40 minutes 58 seconds East 64.50 feet to a computed point; thence South 37 degrees 24 minutes 58 seconds East 62.95 feet to a computed point; thence South 42 degrees 59 minutes 46 seconds East 48.02 feet to a computed point; thence South 43 degrees 25 minutes 04 seconds East 16.00 feet to a computed point; thence South 51 degrees 03 minutes 46 seconds East 44.35 feet to a computed point; thence South 60 degrees 52 minutes 48 seconds East 63.96 feet to a computed point; thence South 66 degrees 12 minutes 12 seconds East 83.33 feet to a computed point; thence South 72 degrees 36 minutes 26 seconds East 143.43 feet to a computed point; thence South 79 degrees 04 minutes 38 seconds East 123.36 feet to a computed point; thence South 85 degrees 18 minutes 43 seconds East 260.01 feet to a computed point; thence South 79 degrees 50 minutes 27 seconds East 197.72 feet to a computed point; thence South 76 degrees 27 minutes 24 seconds East 158.04 feet to a computed point; thence South 72 degrees 04 minutes 27 seconds East 199.41 feet to a computed point; thence South 74 degrees 03 minutes 04 seconds East 237.01 feet to a computed point; thence South 64 degrees 04 minutes 27 seconds East 110.22 feet to a computed point; thence South 52 degrees 41 minutes 19 seconds East 116.00 feet to a computed point; thence South 36 degrees 02 minutes 42 seconds East 159.32 feet to a computed point; thence South 31 degrees 54 minutes 01 second East 256.41 feet to a computed point; thence South 30 degrees 14 minutes 02 seconds East 206.54 feet to a computed point; thence South 26 degrees 21 minutes 39 seconds East 154.29 feet to a computed point; thence South 19 degrees 46 minutes 07 seconds East 159.66 feet to a computed point; thence South 16 degrees 26 minutes 06 seconds East 114.21 feet to a computed point; thence along the Randolph Telephone Membership Corporation property described in Deed Book 1782, Page 2350, Randolph County Public Registry the following courses and distances: South 89 degrees 09 minutes 27 seconds West 1,124.16 feet to a computed point; thence South 15 degrees 53 minutes 23 seconds East 421.10 feet to a computed point; thence along the western boundary line of the Randolph Telephone Membership Corporation property described in Deed Book 1132, Page 308, Randolph County Public Registry the following courses and distances: South 29 degrees 21 minutes 30 seconds East 105.34 feet to a computed point; thence South 22 degrees 21 minutes 35 seconds East 19.06 feet to a computed point; thence South 29 degrees 59 minutes 37 seconds East 50.01 feet to a computed point; thence South 46 degrees 36 minutes 30 seconds East 20.47 feet to a computed point; thence South 27 degrees 13 minutes 25 seconds East 24.32 feet to a computed point; thence South 23 degrees 10 minutes 39 seconds East 22.23 feet to a computed point; thence South 36 degrees 08 minutes 58 seconds East 25.85 feet to a computed point; thence South 28 degrees 01 minutes 04 seconds East 54.02 feet to a computed point; thence South 33 degrees 35 minutes 31 seconds East 84.27 feet to a computed point; thence South 31 degrees 58 minutes 41 seconds East 27.85 feet to a computed point; thence South 23 degrees 50 minutes 36 seconds East 114.39 feet to a computed point; thence South 20 degrees 01 minute 36 seconds East 111.36 feet to a computed point; thence along the Pat M. Bailey, Jr. and Betty Bailey property described in Deed Book 536, Page 112, Randolph County Public Registry the following courses and distances: South 73 degrees 34 minutes 44 seconds West 647.82 feet to a computed point; thence South 86 degrees 41 minutes 04 seconds West 135.98 feet to a computed point; thence along the Howard E. Cooper and Debra D. Cooper property described in Deed Book 1040, Page 450, Randolph County Public Registry the following courses and distances: North 01 degree 21 minutes 55 seconds West 257.07 feet to a computed point; thence North 00 degrees 44 minutes 12 seconds West 942.23 feet to a computed point; thence North 85 degrees 28 minutes 49 seconds West 585.33 feet to a computed point; thence South 03 degrees 57 minutes 26 seconds East 2,158.71 feet to a

computed point; thence South 00 degrees 10 minutes 38 seconds West 404.07 feet along the Howard E. Cooper and Debra D. Cooper property described in Deed Book 1312, Page 1181, Randolph County Public Registry to a computed point; thence North 89 degrees 48 minutes 02 seconds West 89.76 feet to a computed point located on the northern margin of the 60-foot right-of-way for Ross Harris Road (North Carolina Secondary Road 2835); thence along the northern margin of the right-of-way for Ross Harris Road the following courses and distances: North 41 degrees 40 minutes 34 seconds West 83.84 feet to a computed point; thence North 32 degrees 13 minutes 59 seconds West 142.02 feet to a computed point; thence North 47 degrees 51 minutes 45 seconds West 102.66 feet to a computed point; thence North 41 degrees 08 minutes 33 seconds West 93.28 feet to a computed point; thence North 22 degrees 55 minutes 30 seconds West 72.20 feet to a computed point; thence North 26 degrees 08 minutes 11 seconds West 150.11 feet to a computed point; thence North 30 degrees 59 minutes 12 seconds West 53.66 feet to a computed point; thence North 46 degrees 26 minutes 33 seconds West 49.16 feet to a computed point; thence North 63 degrees 21 minutes 52 seconds West 45.45 feet to a computed point; thence North 75 degrees 32 minutes 51 seconds West 12.52 feet to a computed point; thence North 87 degrees 32 minutes 54 seconds West 40.91 feet to a computed point; thence South 84 degrees 59 minutes 30 seconds West 160.36 feet to a computed point; thence South 73 degrees 42 minutes 01 second West 141.19 feet to a computed point; thence South 79 degrees 52 minutes 07 seconds West 73.90 feet to a computed point; thence North 82 degrees 58 minutes 18 seconds West 174.69 feet to a computed point; thence North 80 degrees 11 minutes 24 seconds West 260.44 feet to a computed point; thence North 84 degrees 13 minutes 10 seconds West 142.73 feet to a computed point; thence South 89 degrees 53 minutes 02 seconds West 123.50 feet to a computed point; thence South 80 degrees 51 minutes 19 seconds West 185.62 feet to a computed point; thence South 70 degrees 49 minutes 48 seconds West 64.71 feet to a computed point; thence South 60 degrees 55 minutes 22 seconds West 30.61 feet to a computed point; thence along the Edward B. Commins and Joyce M. Commins property described in Deed Book 2059, Page 1701, Randolph County Public Registry the following courses and distances: North 02 degrees 20 minutes 34 seconds West 214.30 feet to a computed point; thence South 89 degrees 12 minutes 54 seconds West 784.70 feet to a computed point; thence North 00 degrees 25 minutes 18 seconds West 594.29 feet to a computed point located on the eastern boundary line of the Roger D. DeHart property described in Estate File 76E, Page 195 in the office of the Randolph County Clerk of Superior Court; thence continuing along the eastern boundary line of the said DeHart property the following courses and distances: South 88 degrees 43 minutes 33 seconds East 230.45 feet to a computed point; thence North 02 degrees 17 minutes 22 seconds East 253.20 feet to a computed point; thence North 89 degrees 17 minutes 57 seconds East 281.03 feet to a computed point; thence North 05 degrees 53 minutes 27 seconds East 745.46 feet to a computed point; thence North 05 degrees 22 minutes 55 seconds East 1,642.09 feet to a computed point located on the southern boundary line of the Carol Woodell Brown property described in Deed Book 1578, Page 221, Randolph County Public Registry and further described as Tract # 2 on a plat recorded in Plat Book 55, Page 59, Randolph County Public Registry; thence continuing along the southern boundary line of the said Brown property the following course and distance: South 87 degrees 17 minutes 36 seconds East 515.74 feet to a computed point; thence North 02 degrees 19 minutes 35 seconds East 924.06 feet to a computed point located on the eastern margin of the right-of-way for Lions Rest Road; thence continuing along the eastern margin of the right-of-way for Lions Rest Road the following courses and distances: North 40 degrees 19 minutes 21 seconds East 60.61 feet to a computed point; thence North 38 degrees 06 minutes 16 seconds East 264.97 feet to a computed point; thence North 47 degrees 12 minutes 21 seconds East 62.01 feet to the point and place of the BEGINNING, and containing 253.88 acres of land, more or less.

This description is in accordance with a map entitled "Satellite Annexation Map For City of Asheboro(,) Property of THE NORTH CAROLINA ZOOLOGICAL SOCIETY, INC." that was prepared by the City of Asheboro Engineering Department. This annexation map, which is identified by the engineering department as Job # 09006, is dated February 11, 2009. The property lines drawn on this annexation map were taken from Randolph County Tax Maps as of February 11, 2009.

Tract 3:

Grant Township, Randolph County, North Carolina:

BEGINNING at a computed point on the southern margin of the 60-foot right-of-way for Ross Harris Road (North Carolina Secondary Road 2835) that is located North 65 degrees 45 minutes 18 seconds East 2,174.68 feet from the intersection of the centerline of Ross Harris Road with the centerline of Lions Rest Road (North Carolina Secondary Road 2837); thence from the said beginning point along the southern margin of the right-of-way for Ross Harris Road the following courses and distances: South 84 degrees 24 minutes 56 seconds East 33.40 feet to a computed point; thence South 80 degrees 09 minutes 42 seconds East 259.70 feet to a computed point; thence South 82 degrees 59 minutes 7 seconds East 185.26 feet to a computed point; thence North 79 degrees 57 minutes 47 seconds East 86.07 feet to a computed point; thence North 73 degrees 42 minutes 29 seconds East 138.58 feet to a computed point; thence North 84 degrees 57 minutes 07 seconds East 150.58 feet to a computed point; thence South 87 degrees 39 minutes 11 seconds East 30.53 feet to a computed point; thence South 63 degrees 19 minutes 42 seconds East 30.08 feet to a computed point; thence South 46 degrees 34 minutes 25 seconds East 32.19 feet to a computed point; thence South 31 degrees 02 minutes 07 seconds East 42.91 feet to a computed point; thence South 26 degrees 05 minutes 01 second East 145.84 feet to a computed point; thence South 22 degrees 52 minutes 53 seconds East 80.05 feet to a computed point; thence South 41 degrees 08 minutes 40 seconds East 106.58 feet to a computed point; thence South 47 degrees 54 minutes 11 seconds East 97.88 feet to a computed point; thence South 32 degrees 13 minutes 39 seconds East 138.76 feet to a computed point; thence South 41 degrees 38 minutes 39 seconds East 37.62 feet to a computed point; thence departing from the southern margin of the right-of-way for Ross Harris Road and following a bearing and distance of North 89 degrees 05 minutes 46 seconds West 1,271.06 feet to a computed point located at the southeastern corner of the Wayne Miller and Teresa Miller property described in Deed Book 1119, Page 13, Randolph County Public Registry; thence along the eastern boundary line of the said Miller property the following course and distance: North 01 degree 00 minutes 30 seconds West 552.92 feet to the point and place of the BEGINNING, and containing 13.06 acres of land, more or less.

This description is in accordance with a map entitled "Satellite Annexation Map For City of Asheboro(,) Property of THE NORTH CAROLINA ZOOLOGICAL SOCIETY, INC." that was prepared by the City of Asheboro Engineering Department. This annexation map, which is identified by the engineering department as Job # 09006, is dated February 11, 2009. The property lines drawn on this annexation map were taken from Randolph County Tax Maps as of February 11, 2009.

PART VII. EFFECTIVE DATE

SECTION 7. Part VI of this act becomes effective June 30, 2009. The remainder of this act is effective when it becomes law.

SENATE BILL 332:
Zoo and Zoo Funds Modifications

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Commerce, Small Business, and Entrepreneurship	**Date:**	May 18, 2009
Introduced by:	Sen. Brunstetter	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition S332-CSSHx-23		

SUMMARY: ***Senate Bill 332 creates a new law providing the methods by which the Department of Environment and Natural Resources (DENR), on behalf of the North Carolina Zoological Park, would be able to purchase goods and services. Additionally, the bill expands the Zoo's Umstead Act exemption; requires DENR to work with the Zoo on outstanding procurement and contract issues, information technology issues, and any other administrative concerns; requires DENR to review the current Memorandum of Understanding (MOA) between DENR and the North Carolina Zoological Society (Society) and revise or replace the MOA as necessary; and establishes a new Study Committee. The original bill is a recommendation from the North Carolina Zoological Park Funding and Organization Study Committee.***

The Proposed Committee Substitute adds Part VI Annexation, to annex property described in the PCS that is owned by the North Carolina Zoological Society, Inc., placing it in the satellite corporate limits of the City of Asheboro. The annexation becomes effective June 30, 2009, the remainder of the bill would become effective when it becomes law.

[As introduced, this bill was identical to H321, introduced by Reps. E. Warren, Brubaker, Tarleton, Harrison, the PCS for H 321 received a favorable report in House State Government/State Personnel on 4/7/09 and will be referred to Commerce, Small Business, and Entrepreneurship.]

BILL ANALYSIS:

Part I of Senate Bill 332 concerns purchasing and contracting authority on behalf of the North Carolina Zoological Park. The bill creates a new statute (G.S. 143-129.8A), allowing the Department of Environment and Natural Resources (DENR) to use specified procedures to contract with a non-State entity on behalf of the Park where:

(i) the contract directly results in the generation of revenue for the State, or

(ii) the use of the acquired goods and services by the Zoo results in increased revenue, or decreased expenditures, for the State.

Limitation - Under G.S. 143-129.8A(b), notice of requests for proposals (RFP) must be given as provided by law (G.S. 143-129(b)) and contracts must be awarded to the person or entity that submits the best overall proposal. Factors considered in awarding contracts must be identified in the RFP.

Procurement Methods - G.S. 143-129.8A(c) allows DENR to use procurement methods set forth in G.S. 143-135.9, Best Value procurements, in developing and evaluating requests for proposal (RFP). As such, DENR is authorized to negotiate with any proposer to obtain a final contract that best meets the needs of the awarding authority. The subsection provides that negotiations allowed under this section do not alter the contract beyond the scope of the original request for proposals in a matter that: (i) deprives the proposers or potential proposers of a fair opportunity to compete; and (ii) would have resulted in the award of the contract to a different person or entity if the alternations had been included in the request for proposals. G.S. 143-135.9 defines the following:

- Best Value procurement which is defined as the selection of a contractor based on a determination of which proposal offers the best trade off between price and performance, where quality is considered an integral performance factor. The intent of Best Value procurement is to enable contractors to offer, and the agency to select, the most appropriate solution to meet the business objectives defined in the solicitation.
- Government-Vendor Partnership which is defined as a mutually beneficial contractual relationship between State government and a contractor, wherein the two share risk and reward, and value is added to the procurement of needed goods or services.

Promotional Rights - G.S. 143-129.8A(d) specifies that subject to DENR approval, a non-State entity awarded a contract resulting in increased revenue or decreased expenditures for the Park is allowed to advertise, announce, or publicize the provision of services. (This type of promotion is currently prohibited by State rule (01 NCAC 05B.1516).)

Section 1.2 of Part I makes technical amendments to G.S. 143-135.9, Best Value Procurements and amends the statute to include the North Carolina Zoological Park as an agency that may acquire goods and services using the Best Value procurement method described above, or the Government-Vendor partnership method, described above, for highly complex acquisitions.

Part II of SB 322 extends the Umstead Act exemption to the North Carolina Zoological Park. G.S. 66-58(b) is amended to add The North Carolina Zoological Park to the entities exempt from the restriction of units of State government from engaging directly or indirectly in the sale of items, or to maintain establishments rendering service to the public that are normally provided by private enterprises. Section 2.2 repeals 66-58(c)(18) which provided a specific exemption for the Zoo, this repeal conforms to the full exemption granted above.

Parts III and IV of the bill provide administrative improvements and a reporting requirement on the implementation of Parts I and II.

Under Part III, DENR is required to work with the Zoo to:

- Examine all purchasing and contracting polices and procedures and to identify opportunities for delegation. The bill specifies that for purchases and contracts involving promotion and advertising, DENR must consider increasing the amount for soliciting competitive bids or quotes to $5,000.
- Continue negotiations with the Office of Information Technology Services on the Zoo's information technology needs.
- Identify and address any other administrative issues.

This section also requires DENR to review the current Memorandum of Agreement (MOA) between DENR and the North Carolina Zoological Society, and revise or replace the MOA as necessary.

Part IV requires DENR to report to the North Carolina Zoological Park Funding and Organization Study Committee and the Fiscal Research Division on the progress and implementation of Parts I and II no later than January 15, 2010.

Part V of the bill establishes the North Carolina Zoological Park Funding and Organization Study Committee. The Committee consists of 22 members: five members of the Senate, appointed by the President Pro Tempore of the Senate; five members of the House, appointed by the Speaker of the House; the Secretary of DENR, or designee; the Director of the Zoological Park, or designee; the Secretary of Commerce, or designee; the Executive Director of the Division of Tourism, Film and Sports Development, or designee; the Chair of the NC Zoological Park Council, or designee; the Chair of the board of directors of the NC Zoological Society, or designee; two representatives of the Zoological Society, one appointed by the President Pro Tempore and one appointed by the Speaker of the House, upon recommendation of the Zoo Society chair; two at large public members appointed by the President Pro Tempore of the Senate; and two at large public members appointed by the Speaker of the House. The Committee is required to report to the

2010 Regular Session of the 2009 General Assembly and the Environmental Review Commission, on or before May 1, 2010, and then terminates on that date.

The Proposed Committee Substitute adds **Part IV** to the bill which describes property owned by The North Carolina Zoological Society, Inc. Part IV provides that the property described shall be considered in the satellite corporate limits of the City of Asheboro. Under G.S. 160A-58, "Satellite corporate limits" means the corporate limits of a noncontiguous area annexed pursuant to a local act authorizing or effecting noncontiguous annexations, or pursuant to Chapter 160A, Part 4 Annexation of Noncontiguous Areas.

EFFECTIVE DATE: Part VI of the bill would become effective June 30, 2009, the remainder of the bill would become effective when it becomes law.

Dan Ettefagh, Study Committee Counsel, contributed to this summary
S332-SMSH-59(CSSHx-23) v2

SENATE BILL 332*

Short Title:	Zoo and Zoo Funds Modifications.	(Public)
Sponsors:	Senators Brunstetter, Dorsett, Jones, Tillman, Weinstein; Albertson, Apodaca, Atwater, Berger of Rockingham, Bingham, Clodfelter, Davis, Foriest, Forrester, Garrou, Jacumin, Kinnaird, Preston, Purcell, Stevens, and Vaughan.	
Referred to:	State and Local Government.	

February 26, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE PURCHASING AND CONTRACTING AUTHORITY BY THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES ON BEHALF OF THE NORTH CAROLINA ZOOLOGICAL PARK; TO EXPAND THE UMSTEAD EXEMPTION FOR THE PARK; TO IMPROVE THE ADMINISTRATION OF PARK OPERATIONS; TO REQUIRE A REPORTING OF THE PROGRESS AND IMPLEMENTATION OF THE MANDATES OF THIS ACT; AND TO ESTABLISH THE NORTH CAROLINA ZOOLOGICAL PARK FUNDING AND ORGANIZATION STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I: PURCHASING AND CONTRACTING AUTHORITY ON BEHALF OF THE NORTH CAROLINA ZOOLOGICAL PARK

SECTION 1.1. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-129.8A. Purchase of certain goods and services for the North Carolina Zoological Park.**

(a) Exemption. – The North Carolina Zoological Park is a State entity whose primary purpose is the attraction of, interaction with, and education of the public regarding issues of global conservation, ecological preservation, and scientific exploration, and that purpose presents unique challenges requiring greater flexibility and faster responsiveness in meeting the needs of and creating the attractions for the Park. Accordingly, the Department of Environment and Natural Resources may use the procedure set forth in this section, in addition to or instead of any other procedure available under North Carolina law, to contract with a non-State entity on behalf of the Park for the acquisition of goods and services where: (i) the contract directly results in the generation of revenue for the State of North Carolina; or (ii) the use of the acquired goods and services by the Park results in increased revenue or decreased expenditures for the State of North Carolina.

(b) Limitation. – Contracts executed pursuant to the exemption of subsection (a) of this section may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

(1) Notice of the request for proposals shall be given in accordance with G.S. 143-129(b).

(2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be

considered in awarding contracts shall be identified in the request for proposals.

(c) Procurement Methods. – The Department may use procurement methods set forth in G.S. 143-135.9 in developing and evaluating requests for proposals under this section. The Department may negotiate with any proposer in order to obtain a final contract that best meets the needs of the awarding authority. Negotiations allowed under this section shall not alter the contract beyond the scope of the original request for proposals in a manner that: (i) deprives the proposers or potential proposers of a fair opportunity to compete for the contract; and (ii) would have resulted in the award of the contract to a different person or entity if the alterations had been included in the request for proposals.

(d) Promotional Rights. – Subject to the approval of the Department, a non-State entity awarded a contract that results in increased revenue or decreased expenditures for the Park may advertise, announce, or otherwise publicize the provision of services pursuant to award of the contract."

SECTION 1.2. G.S. 143-135.9 reads as rewritten:

"**§ 143-135.9. ~~"Best Value" information technology procurements.~~Best Value procurements.**

(a) ~~For purposes of this section:~~Definitions. – The following definitions apply in this section:

(1) ~~"Best Value" procurement means the~~Best Value procurement. – The selection of a contractor based on a determination of which proposal offers the best trade-off between price and performance, where quality is considered an integral performance factor. The award decision is made based on multiple factors, including: total cost of ownership, meaning the cost of acquiring, operating, maintaining, and supporting a product or service over its projected lifetime; the evaluated technical merit of the vendor's proposal; the vendor's past performance; and the evaluated probability of performing the requirements stated in the solicitation on time, with high quality, and in a manner that accomplishes the stated business objectives and maintains industry standards compliance.

(2) ~~"Government-Vendor Partnership" means a~~Government-Vendor partnership. – A mutually beneficial contractual relationship between State government and a contractor, wherein the two share risk and reward, and value is added to the procurement of ~~complex technology.~~needed goods or services.

(3) ~~"Information technology" includes electronic~~ Information technology. – Electronic data processing and telecommunications goods and services, microelectronics, software, information processing, office systems, any services related to the foregoing, and consulting or other services for design and/or redesign of business processes.

(4) ~~"Solution-Based Solicitation" means a~~Solution-Based solicitation. – A solicitation in which the requirements are stated in terms of how the product or service being purchased should accomplish the business objectives, rather than in terms of the technical design of the product or service.

(b) Intent. – The intent of ~~"Best Value" Information Technology~~Best Value procurement is to enable contractors to offer and the agency to select the most appropriate solution to meet the business objectives defined in the solicitation and to keep all parties focused on the desired outcome of a procurement. ~~Business process reengineering, system design, and technology implementation may be combined into a single solicitation.~~

(c) Information Technology. – The acquisition of information technology by the State of North Carolina shall be conducted using the ~~"Best Value"~~Best Value procurement method. For purposes of this section, business process reengineering, system design, and technology

implementation may be combined into a single solicitation. For acquisitions which the procuring agency and the Division of Purchase and Contracts or the Office of Information Technology Services, as applicable, deem to be highly complex or determine that the optimal solution to the business problem at hand is not known, the use of Solution-Based Solicitation and Government-Vendor Partnership is authorized and encouraged. Any county, city, town, or subdivision of the State may acquire information technology pursuant to this section.

~~(d) Any county, city, town or subdivision of the State may acquire information technology pursuant to this section.~~

(e) North Carolina Zoological Park. – The acquisition of goods and services under a contract entered pursuant to the exemption of G.S. 143-129.8A(a) by the Department of Environment and Natural Resources on behalf of the North Carolina Zoological Park may be conducted using the Best Value procurement method. For acquisitions which the procuring agency deems to be highly complex, the use of Government-Vendor partnership is authorized."

PART II: EXPANSION OF UMSTEAD ACT EXEMPTION FOR THE NORTH CAROLINA ZOOLOGICAL PARK

SECTION 2.1. G.S. 66-58(b) is amended by adding a new subdivision to read:

"(b) The provisions of subsection (a) of this section shall not apply to:

...

(26) The North Carolina Zoological Park."

SECTION 2.2. G.S. 66-58(c)(18) is repealed.

PART III: ADMINISTRATIVE IMPROVEMENTS TO THE NORTH CAROLINA ZOOLOGICAL PARK OPERATIONS

SECTION 3.1. The Secretary of the Department of Environment and Natural Resources shall work with the North Carolina Zoological Park to do the following:

(1) Examine all purchasing and contracting policies and procedures. The Department shall identify opportunities for delegating purchasing and contracting responsibilities to the Park where appropriate. For purchases and contracts involving promotion and advertising, the Department shall consider increasing the amount over which the Park must solicit competitive bids or quotes to five thousand dollars ($5,000).

(2) Continue negotiations with the Office of Information Technology Services regarding the implementation of Article 3D of Chapter 147 of the General Statutes.

(3) Identify and address any other administrative concerns of the Park.

SECTION 3.2. The Secretary of the Department of Environment and Natural Resources shall review the current Memorandum of Understanding between the Department and the North Carolina Zoological Society. The Secretary shall work with the Society to make appropriate revisions to or replace the Memorandum, as needed.

PART IV: REPORT

SECTION 4. The Department of Environment and Natural Resources shall report to the North Carolina Zoological Park Funding and Organization Study Committee and to the Fiscal Research Division of the Legislative Services Office on the progress and implementation of Parts I and III of this act no later than January 15, 2010.

PART V: ESTABLISHMENT OF COMMITTEE

SECTION 5.1. Committee Established. – The North Carolina Zoological Park Funding and Organization Study Committee is hereby established.

SECTION 5.2. Membership. – The Committee shall consist of 22 members as follows:

(1) Five members of the Senate appointed by the President Pro Tempore of the Senate.

(2) Five members of the House appointed by the Speaker of the House of Representatives.

(3) The Secretary of Environment and Natural Resources, or the Secretary's designee.

(4) The Director of the Zoological Park, or the Director's designee.

(5) The Secretary of Commerce, or the Secretary's designee.

(6) The Executive Director of the Division of Tourism, Film and Sports Development of the Department of Commerce, or the Executive Director's designee.

(7) The Chair of the North Carolina Zoological Park Council, or the Chair's designee.

(8) The Chair of the board of directors of the North Carolina Zoological Society, Inc., or the Chair's designee.

(9) Two additional representatives of the Zoo Society Board, who may be comprised of current or former members, one appointed by the President Pro Tempore of the Senate upon recommendation of the Chair of the Zoo Society Board, one appointed by the Speaker of the House of Representatives upon recommendation of the Chair of the Zoo Society Board.

(10) Two representatives from the public at large appointed by the President Pro Tempore of the Senate.

(11) Two representatives from the public at large appointed by the Speaker of the House of Representatives.

SECTION 5.3. Cochairs. – The Committee shall have three cochairs, one designated by the President Pro Tempore of the Senate and two designated by the Speaker of the House of Representatives from among their respective appointees. The Committee shall meet upon the call of the cochairs.

SECTION 5.4. Quorum. – A quorum of the Committee shall consist of 10 members.

SECTION 5.5. Vacancies. – Any vacancy on the Committee shall be filled by the original appointing authority.

SECTION 5.6. Purpose and Duties. – The Committee shall study: (i) funding issues associated with the Zoological Park, including current and expected capital and operational needs, current sources of revenue, and potential funding mechanisms; and (ii) the current organizational structure of the Zoological Park, and other potential organizational structures, including, but not limited to, reorganization as an authority, as a private nonprofit corporation, or other entity to determine which organizational structure would most effectively achieve the mission of the Zoological Park.

SECTION 5.7. Expenses of Members. – Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 5.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Committee to aid in its work.

SECTION 5.9. Consultants. – The Committee may hire consultants to assist with the study as provided in G.S. 120-32.02(b).

SECTION 5.10. Meetings. – The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

SECTION 5.11. Report. – The Committee shall report its findings and recommendations to the 2010 Regular Session of the 2009 General Assembly and the Environmental Review Commission on or before May 1, 2010, at which time the Committee shall terminate.

SECTION 5.12. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this act.

PART VI: EFFECTIVE DATE

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 385*
State and Local Government Committee Substitute Adopted 3/18/09

Short Title: Macon Subdivisions. (Local)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE AUTHORITY OF MACON COUNTY TO REGULATE THE SUBDIVISION OF LAND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-335 reads as rewritten:

"**§ 153A-335. "Subdivision" defined.**

(a) For purposes of this Part, "subdivision" means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets; however, the following is not included within this definition and is not subject to any regulations enacted pursuant to this Part:

(1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the county as shown in its subdivision regulations.

(2) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for widening or opening streets or for public transportation system corridors.

(4) The division of a tract in single ownership the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the county as shown by its subdivision regulations.

A county in its ordinance may provide that "subdivision" does not apply to a family subdivision. A "family subdivision" is the division of land into two or more parcels or lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within four degrees of collateral kinship to the grantor. The exemption provided by the ordinance shall only apply if the deed of conveyance notes that it is a family subdivision as defined by this section. Degrees of kinship shall be computed in accordance with G.S. 104A-1.

(b) A county may provide for expedited review of specified classes of subdivisions."

SECTION 2. This act does not impose any liability on the State of North Carolina concerning the construction or maintenance of any road.

SECTION 3. This act applies to Macon County only.

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

SENATE BILL 385:
Macon Subdivisions

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	May 19, 2009
Introduced by:	Sen. Snow	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: SUMMARY: Senate Bill 385 would allow Macon County to exempt from its subdivision-regulation ordinance a "family subdivision."

CURRENT LAW: The county statute on planning and regulation of development provides that a county may regulate subdivisions in a uniform way. Subdivisions are defined as "all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets" with certain exceptions.

In an exception created in 1989 for Henderson County only, the county is given the authority to exempt from its subdivision ordinance a "family subdivision." A "family subdivision" is defined as "the division of land into two or more parcels or lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within four degrees of collateral kinship to the grantor." The exemption applies only if the deed of conveyance references that definition.

BILL ANALYSIS: SB 385 would add Macon County to the exemption.

EFFECTIVE DATE: The act would become effective when it becomes law.

Bill Gilkeson, Counsel to Local Government I, substantially contributed to this summary.

S385-SMSF-65(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 691

Short Title:	Tax Info Disclosure to State Treasurer.	(Public)
Sponsors:	Senator Dorsett.	
Referred to:	Finance.	

March 24, 2009

A BILL TO BE ENTITLED

AN ACT TO PERMIT DISCLOSURE OF CERTAIN TAX INFORMATION OF LOCAL GOVERNMENTS TO THE DEPARTMENT OF STATE TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-259(b) is amended by adding a new subdivision to read:

"(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

...

(39) To furnish the Department of State Treasurer with information it requests about whether a unit of local government has timely filed a withholding report, has been charged a penalty, or has paid a penalty, as such information may be helpful in auditing local government accounts pursuant to G.S. 159-34 and determining compliance with the Local Government Finance Act."

SECTION 2. This act is effective for taxable years beginning on or after January 1, 2009.

VISITOR REGISTRATION SHEET

STATE GOV. / STATE PERSONNEL — MAY 19, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dennis Patterson	OSA
Penny Huff	School of Gov
David Starling	NCDST
Alex Pully	OST
Alan Brown	UNC-TV
Elizabeth Biser	DENR
Kelly Hall	NCLOO Society
Kelly Mebane	UNC-TV
Alan Brown	
Darnell Boyd	Rep. Adams

Minutes
House Committee on State Government/State Personnel
Tuesday, May 26, 2009

The House Committee on State Government/State Personnel met on Tuesday, May 26, 2009, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Justus, Killian, Mackey, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Rod Finger, Kenneth Burroughs and David Shearon. Pages for the meeting included Delise Barnard of Wake County, sponsored by Representative Stam; Samara Clark of Wake, also sponsored by Representative Stam; and Daniel Sheaffer of Surry County, sponsored by Representative Stevens.

The following bills were considered:

SB 484, Auditor Ex Officio Duties. Representative Tucker explained Senator Clodfelter's bill, which would replace the State Auditor with the State Treasurer on an information technology services dispute resolution panel and would remove the State Auditor from the Liability Insurance Trust Fund Council. Representative Sager moved for a favorable report and recommendation that the bill be re-referred to the Committee on Science and Technology. The motion carried.

SB 863, Purchase Service/Certain Employment. Senator Berger explained that the bill would provide for the purchase of creditable service by members of the local governmental employees' retirement system for certain periods of nonqualified employment. Following discussion, Representative Wiley moved for a favorable report and recommendation that the bill be re-referred to the Committee on Pensions and Retirement. The motion carried.

SB 1021, Property Finders. Representative Mackey moved for adoption of the PCS for discussion. The motion was approved. Representative Blust explained the bill, which would protect owners of abandoned property by regulating property finders. Following discussion, Vice Chairman Harrell moved for a favorable report as to the House committee substitute bill, unfavorable as to Senate Committee Substitute Bill and recommendation that the House committee substitute bill be re-referred to the Committee on Judiciary I. The motion carried.

The meeting was adjourned at 2:20 PM

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

5-26

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

SB 484 A BILL TO BE ENTITLED AN ACT TO REMOVE THE STATE AUDITOR FROM CERTAIN EX OFFICIO DUTIES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on SCIENCE AND TECHNOLOGY.

(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 _____.

5-26

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
SB 863 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE PURCHASE OF CREDITABLE SERVICE BY MEMBERS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR CERTAIN PERIODS OF NONQUALIFIED EMPLOYMENT.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on PENSIONS AND RETIREMENT.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
SB 1021 A BILL TO BE ENTITLED AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.

☒ With a favorable report as to the House committee substitute bill, unfavorable as to Senate Committee Substitute Bill and recommendation that the House committee substitute bill be re-referred to the Committee on JUDICIARY I.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, May 26, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

SB 484	**Auditor Ex Officio Duties.** **Senator Clodfelter**
SB 863	**Purchase Service/Certain Employment.** **Senator Berger**
SB 1021	**Property Finders.** **Senator Stein**

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 1

SENATE BILL 484*

Short Title:	Auditor Ex Officio Duties.	(Public)
Sponsors:	Senator Clodfelter.	
Referred to:	Judiciary I.	

March 10, 2009

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE STATE AUDITOR FROM CERTAIN EX OFFICIO DUTIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.93 reads as rewritten:

"**§ 147-33.93. Fees; dispute resolution panel.**

In addition to the powers granted pursuant to Article 6B of this Chapter or by any other provision of law, the Office of Information Technology Services may go before a panel consisting of the State ~~Auditor,~~ Treasurer, the State Controller, and the State Budget Officer, or their designees, to resolve disputes concerning services, fees, and charges incurred by State government agencies receiving information technology services from the Office. The State ~~Auditor~~ Treasurer shall adopt rules for the dispute resolution ~~process pursuant to G.S. 147-64.9.~~ process. The decisions of the panel shall be final in the settlement of all fee disputes that come before it."

SECTION 2. G.S. 147-64.6(c)(17) reads as rewritten:

"(c) The Auditor shall be responsible for the following acts and activities:

...

~~(17) The Auditor or the Auditor's designee, in conjunction with the State Controller and the State Budget Officer or their designees, shall handle the resolution of fee disputes between the Office of Information Technology Services and the State agencies receiving information technology services from the Office.~~

...."

SECTION 3. Article 6 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"**§ 147-86.2. Information Technology Services fees; dispute resolution panel.**

The State Treasurer or the State Treasurer's designee, in conjunction with the State Controller and the State Budget Officer or their designees, shall handle the resolution of fee disputes between the Office of Information Technology Services and the State agencies receiving information technology services from the Office."

SECTION 4. G.S. 116-220(c) reads as rewritten:

"(c) The Board is authorized to create a Liability Insurance Trust Fund Council composed of not more than 13 members; one member each shall be appointed by the State Attorney General, ~~the State Auditor,~~ the State Insurance Commissioner, the Director of the Office of State Budget and Management, and the State Treasurer; the remaining members shall be appointed by the Board. Subject to all requirements and limitations of this Article and to any rules and regulations adopted by the Board under the terms of subsection (b) of this section, the Board may delegate to the Liability Insurance Trust Fund Council responsibility and authority

for the administration of the self-insured liability insurance program and of the insurance trust accounts established pursuant to such program."

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

SENATE BILL 484:
Auditor Ex Officio Duties

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Science and Technology	**Date:**	May 26, 2009
Introduced by:	Sen. Clodfelter	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 484 would replace the State Auditor with the State Treasurer on an information technology services dispute resolution panel, and would remove the State Auditor from the Liability Insurance Trust Fund Council.***

The bill has a serial referral to the Science and Technology Committee.

CURRENT LAW: The State Auditor, or the Auditor's designee, is a member of the following two groups addressed by this bill:

- An information technology services dispute panel, charged with resolving disputes concerning services, fees, and charges incurred by State government agencies receiving information technology services from the Office of Information Technology Services of the Office of the Governor.
- The Liability Insurance Trust Fund Council, a 13 member group created by the Board of Governors of The University of North Carolina, that has responsibility for the administration of the University self-insured liability insurance program for health-care practitioners, and related insurance trust accounts, established under Article 26 of Chapter 116 of the General Statutes.

BILL ANALYSIS: Senate Bill 484 would:

- remove the State Auditor from the information technology services dispute panel and replace the Auditor with the State Treasurer;
- provide that the State Treasurer, or her designee (rather than the State Auditor or the Auditor's designee), in conjunction with the State Controller and the State Budget Officer, shall handle the resolution of fee disputes between the Office of Information Technology Services and the State agencies receiving information technology services from that office; and
- remove the State Auditor from the Liability Insurance Trust Fund Council.

EFFECTIVE DATE: This act would become effective when it becomes law.

Giles Perry, Counsel to the Senate Judiciary I Committee, contributed to this summary.

S484-SMSF-64(e1) v4

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 863*
Pensions & Retirement & Aging Committee Substitute Adopted 4/22/09

Short Title: Purchase Service/Certain Employment. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE PURCHASE OF CREDITABLE SERVICE BY MEMBERS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR CERTAIN PERIODS OF NONQUALIFIED EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-26 is amended by adding a new subsection to read:

"(u1) Credit at Full Cost for Nonqualified Employment. – Notwithstanding any other provisions of this Chapter, any member may purchase a maximum of five years of creditable service for nonqualified employment with an economic development organization that receives at least fifty percent (50%) of its funding from local government, upon the completion of five years of membership service, by making a lump-sum payment into the Annuity Savings Fund. The member shall obtain written verification of the service from the nonprofit corporation. The payment by the member shall be equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the Retirement System's liabilities, and the calculation of the amount payable shall take into account the additional retirement allowance arising on account of the additional service credits commencing at the earliest age at which the member could retire with an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the actuary, plus an administrative fee to be determined by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost," "full liability," and "full actuarial cost" include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance."

SECTION 2. This act becomes effective July 1, 2009.

SENATE BILL 863:
Purchase Service/Certain Employment

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Pensions and Retirement	**Date:**	May 26, 2009
Introduced by:	Sen. Berger of Rockingham	**Prepared by:**	Shirley Iorio, Ph D* Legislative Analyst
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 863 would allow a member of the Local Governmental Employees' Retirement System to purchase up to five years of creditable service for nonqualified employment with an economic development organization that receives at least 50% of its funding from local government.***

[As introduced, this bill was identical to H725, as introduced by Rep. Cole, which is currently in House Pensions and Retirement.]

BILL ANALYSIS:

Senate Bill 863 amends the law governing the Local Governmental Employees' Retirement System to allow a member who has completed at least five years of membership service to purchase creditable service for periods of nonqualified employment with an economic development organization that receives at least 50% of its funding from local government. The member may purchase a maximum of five years of such service.

The member must obtain written verification of the service from the nonprofit corporation. The member must also pay the full liability of the credit as determined by the Board of Trustees upon the advice of the actuary. The full liability shall include an administrative fee and assumes postretirement allowance increases from the earliest age at which a member could retire on an unreduced service allowance.

EFFECTIVE DATE: This act would become effective July 1, 2009.

BACKGROUND:

"IRC Section 415(n) allows the purchase of non-employer service without applying the contribution limits of IRC Section 415 to the contribution to the plan as long as the purchased service meets certain restrictions. One of these restrictions limits the purchase of nonqualified service, as defined in IRS Section 415(n), to five years." (*April 3, 2009 letter from Buck Consultants, Retirement System Actuary)*

**Karen Cochran-Brown, Counsel to Senate Pensions & Retirement & Aging, substantially contributed to this summary.*

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 1021
Judiciary I Committee Substitute Adopted 5/12/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1021-PCS35339-RO-48

Short Title: Property Finders. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-62 reads as rewritten:

"**§ 116B-62. Preparation of list of owners by Treasurer.**

(a) There shall be delivered in an electronic format to the Administrative Office of the Courts to be distributed to the clerk of superior court of each county prior to June 30 of each year a list prepared by the Treasurer of escheated and abandoned property reported to the Treasurer. The list shall contain:

(1) The names, if known, in alphabetical order of surname, and last known addresses, if any, of apparent owners of escheated and abandoned property;

(2) The names and addresses of the holders of the abandoned property; and

(3) A statement that claim and proof of legal entitlement to escheated or abandoned property shall be presented by the owner to the Treasurer, which statement shall set forth where further information may be obtained.

(b) At the time the lists are distributed to the clerks of superior court, but no later than June 30 of each year, the Treasurer shall cause to be published once each week for two consecutive weeks, in at least two newspapers having general circulation in this State, a notice stating the nature of the lists and that the lists are available for inspection at the offices of the respective clerks of superior court, together with any other information the Treasurer deems appropriate to appear in the notice.

(c) The Treasurer is not required to include in any list any item of a value, as determined by the Treasurer, in the Treasurer's discretion, of less than fifty dollars ($50.00), unless the Treasurer deems inclusion of items of lesser amounts to be in the public interest.

(d) The clerks of superior court shall ~~retain the lists on permanent file in their offices and shall make them~~ make the lists available for public inspection.

(e) The lists prepared by the Treasurer shall include only escheated and abandoned property reported for the current reporting date and are not required to be cumulative lists of escheated and abandoned property previously reported.

(f) Notwithstanding the provisions of Chapter 132 of the General Statutes, the supporting data and lists of apparent owners of escheated and abandoned property may be confidential until six months after the notice to clerks of superior court required by subsection

(b) of this section has been distributed. This subsection shall not apply to owners of reported property making inquiries about their property to the Escheat Fund."

SECTION 2. G.S. 116B-78 reads as rewritten:

"**§ 116B-78. Agreement to locate property.**

(a) An agreement ~~by an owner,~~covered by this section, the primary purpose of which is to locate, ~~deliver,~~recover, or assist in the recovery of property that is presumed abandoned, is being held by a clerk of superior court, or has been transferred to the State Treasurer by a clerk of superior court, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the ~~Treasurer.~~Treasurer or the clerk of superior court. Agreements under this section include power of attorney agreements and agreements to sell or release interest in property that is presumed abandoned. This subsection does not apply to an owner's agreement with an attorney to file a claim or special proceeding as to identified property or contest the Treasurer's denial of a ~~claim.~~claim or a clerk's denial of a petition.

(b) An agreement ~~by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property,~~ covered by this section is enforceable only ~~if the agreement~~ if it meets all of the following criteria:

(1) ~~is~~ Is in ~~writing,~~ writing and clearly sets forth the nature of the property and the services to be ~~rendered,~~ rendered.

(2) ~~is~~ Is signed by the ~~owner,~~owner under oath.

(3) Describes the property, which includes the type of property, the property ID, and the name of the holder.

(4) States that there may be other claims to the property that may reduce the share of the owner.

(5) ~~and states~~ States the value of the property before and after the fee or other compensation has been deducted.

(6) States clearly the fees and costs for services. Total fees and costs shall not exceed one thousand dollars ($1,000) or twenty percent (20%) of the value of the property recovered, whichever is less.

(7) Discloses that the property is being held by the North Carolina Department of State Treasurer's Unclaimed Property Program or in a clerk of superior court's office, as applicable.

(c) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(d) Any person who enters into an ~~An~~ agreement covered by this section ~~that provides for compensation that is unconscionable is unenforceable except by the owner.~~ with an owner shall be allowed to receive cash property, but not tangible property or securities, on behalf of the owner but shall not be authorized to negotiate the check made payable to the owner. ~~An owner who has made an agreement to pay compensation that is unconscionable, or the Treasurer on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorneys' fees to an owner who prevails in the action.~~ Tangible property shall be delivered to the owner by the Treasurer, and securities will be reregistered into the owner's name.

(e) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than as provided in subsection ~~(d)~~(b) of this section.

(f) Any person who enters into an agreement covered by this section with an owner shall register ~~annually~~each calendar year with the Treasurer. The information to be required under this subsection shall include the person's name, address, telephone number, state of

incorporation or residence, as applicable, and the person's social security or federal identification number. A registration fee of one hundred dollars ($100.00) shall be paid to the Treasurer at the time of the filing of the registration information. Fees received under this subsection shall be credited to the General Fund.

(g) In addition to rendering an agreement void and unenforceable, a failure to comply with the provisions of this section constitutes an unfair or deceptive trade practice under G.S. 75-1.1."

SECTION 3. Article 22 of Chapter 28A of the General Statutes is amended by adding a new section to read:

"**§ 28A-22-11. Agreements with heirs.**

Any agreement by an heir, unknown or known but unlocated, the primary purpose of which is to locate or recover, or assist in the recovery, of a share in a decedent's estate shall be subject to the provisions of G.S. 116B-78(b)."

SECTION 4. This act becomes effective October 1, 2009, and applies to agreements entered into on or after that date.

SENATE BILL 1021: Property Finders

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary I	**Date:**	May 25, 2009
Introduced by:	Sen. Stein	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to Second Edition S1021-CSRO-48		

SUMMARY: Senate Bill 1021 amends the Abandoned Property law to regulate agreements to locate property.

The Proposed Committee Substitute corrects a misspelled word.

[As introduced, this bill was identical to H1191, as introduced by Rep. Blust, which is currently in House Judiciary I.]

CURRENT LAW:

Under current law, an agreement entered by an owner to locate, deliver, recover, or assist in the recovery of abandoned property is enforceable only if the agreement is in writing, and clearly sets forth the nature the property and the services to be rendered. The agreement must be signed by the owner and state the ..lue of the property before and after deduction of a fee. An agreement is void if it was entered during the time the property is presumed abandoned and 24 months after the date the property is paid or delivered to the Treasurer.

An agreement that provides for unconscionable compensation is unenforceable against the owner. Either the owner or the Treasurer may maintain an action to reduce the compensation in such cases.

Any person who enters an agreement with an owner must register annually with the Treasurer and pay a $100 registration fee.

BILL ANALYSIS:

Section 1 of Senate Bill 1021 streamlines the process for delivering the list of owners to the clerks of court through the Administrative Office of the Courts. Section 2 extends the law to cover property held by a clerk of superior court as well as property that has been transferred to the Treasurer. Agreements subject to this law include power of attorney agreements and agreements to sell or release interest in property that is presumed abandoned. The bill provides that an agreement is enforceable only if it:

- Is in writing and clearly sets forth the nature of the property and the services to be rendered.
- Is signed by the owner under oath.
- States the value of the property before and after deduction of the fee.
- States that there may be other claims to the property that may reduce the share of the owner.
- Describes the property, including the type of property, the property ID, and the name of the holder.

- States clearly the fees and costs of services which shall not exceed the lesser of $1,000.00 or 20% of the value of the property recovered.
- Discloses that the property is being held by the Department of State Treasurer or by a clerk of superior court.

The bill removes the provision relating to the unenforceability of unconscionable fees. The bill provides that anyone entering an agreement with the owner may receive cash property, but not tangible property or securities on behalf of the owner. However, the person may not negotiate a check made payable to the owner. Tangible property and securities shall be delivered to the owner.

The bill further makes failure to comply with its provisions an unfair and deceptive trade practice.

Finally, Section 3 of the bill adds a new section to the law governing the distribution of decedents' estates to clarify that agreements by heirs are also covered by the abandoned property law.

EFFECTIVE DATE: This act becomes effective October 1, 2009, and applies to agreements entered into on or after that date.

S1021-SMRO-103(CSRO-48) v1

SENATE BILL 1021
Judiciary I Committee Substitute Adopted 5/12/09

Short Title: Property Finders. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO PROTECT OWNERS OF ABANDONED PROPERTY BY REGULATING PROPERTY FINDERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116B-62 reads as rewritten:

"**§ 116B-62. Preparation of list of owners by Treasurer.**

(a) There shall be delivered in an electronic format to the Administrative Office of the Courts to be distributed to the clerk of superior court of each county prior to June 30 of each year a list prepared by the Treasurer of escheated and abandoned property reported to the Treasurer. The list shall contain:

(1) The names, if known, in alphabetical order of surname, and last known addresses, if any, of apparent owners of escheated and abandoned property;

(2) The names and addresses of the holders of the abandoned property; and

(3) A statement that claim and proof of legal entitlement to escheated or abandoned property shall be presented by the owner to the Treasurer, which statement shall set forth where further information may be obtained.

(b) At the time the lists are distributed to the clerks of superior court, but no later than June 30 of each year, the Treasurer shall cause to be published once each week for two consecutive weeks, in at least two newspapers having general circulation in this State, a notice stating the nature of the lists and that the lists are available for inspection at the offices of the respective clerks of superior court, together with any other information the Treasurer deems appropriate to appear in the notice.

(c) The Treasurer is not required to include in any list any item of a value, as determined by the Treasurer, in the Treasurer's discretion, of less than fifty dollars ($50.00), unless the Treasurer deems inclusion of items of lesser amounts to be in the public interest.

(d) The clerks of superior court shall ~~retain the lists on permanent file in their offices and shall make them~~ make the lists available for public inspection.

(e) The lists prepared by the Treasurer shall include only escheated and abandoned property reported for the current reporting date and are not required to be cumulative lists of escheated and abandoned property previously reported.

(f) Notwithstanding the provisions of Chapter 132 of the General Statutes, the supporting data and lists of apparent owners of escheated and abandoned property may be confidential until six months after the notice to clerks of superior court required by subsection (b) of this section has been distributed. This subsection shall not apply to owners of reported property making inquiries about their property to the Escheat Fund."

SECTION 2. G.S. 116B-78 reads as rewritten:

"**§ 116B-78. Agreement to locate property.**

(a) An agreement ~~by an owner,~~covered by this section, the primary purpose of which is to locate, ~~deliver,~~recover, or assist in the recovery of property that is presumed abandoned, is being held by a clerk of superior court, or has been transferred to the State Treasurer by a clerk of superior court, is void and unenforceable if it was entered into during the period commencing on the date the property was presumed abandoned and extending to a time that is 24 months after the date the property is paid or delivered to the ~~Treasurer.~~Treasurer or the clerk of superior court. Agreements under this section include power of attorney agreements and agreements to sale or release interest in property that is presumed abandoned. This subsection does not apply to an owner's agreement with an attorney to file a claim or special proceeding as to identified property or contest the Treasurer's denial of a ~~claim.~~claim or a clerk's denial of a petition.

(b) An agreement ~~by an owner, the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property,~~ covered by this section is enforceable only ~~if the agreement~~ if it meets all of the following criteria:

(1) ~~is~~ Is in ~~writing,~~ writing and clearly sets forth the nature of the property and the services to be ~~rendered,~~ rendered.

(2) ~~is~~ Is signed by the ~~owner,~~owner under oath.

(3) Describes the property, which includes the type of property, the property ID, and the name of the holder.

(4) States that there may be other claims to the property that may reduce the share of the owner.

(5) ~~and states~~ States the value of the property before and after the fee or other compensation has been deducted.

(6) States clearly the fees and costs for services. Total fees and costs shall not exceed one thousand dollars ($1,000) or twenty percent (20%) of the value of the property recovered, whichever is less.

(7) Discloses that the property is being held by the North Carolina Department of State Treasurer's Unclaimed Property Program or in a clerk of superior court's office, as applicable.

(c) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(d) Any person who enters into an ~~An~~ agreement covered by this section ~~that provides for compensation that is unconscionable is unenforceable except by the owner.~~ with an owner shall be allowed to receive cash property, but not tangible property or securities, on behalf of the owner but shall not be authorized to negotiate the check made payable to the owner. ~~An owner who has made an agreement to pay compensation that is unconscionable, or the Treasurer on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorneys' fees to an owner who prevails in the action.~~ Tangible property shall be delivered to the owner by the Treasurer, and securities will be reregistered into the owner's name.

(e) This section does not preclude an owner from asserting that an agreement covered by this section is invalid on grounds other than as provided in subsection ~~(d)~~(b) of this section.

(f) Any person who enters into an agreement covered by this section with an owner shall register ~~annually~~each calendar year with the Treasurer. The information to be required under this subsection shall include the person's name, address, telephone number, state of incorporation or residence, as applicable, and the person's social security or federal identification number. A registration fee of one hundred dollars ($100.00) shall be paid to the Treasurer at the time of the filing of the registration information. Fees received under this subsection shall be credited to the General Fund.

(g) In addition to rendering an agreement void and unenforceable, a failure to comply with the provisions of this section constitutes an unfair or deceptive trade practice under G.S. 75-1.1."

SECTION 3. Article 22 of Chapter 28A of the General Statutes is amended by adding a new section to read:

"**§ 28A-22-11. Agreements with heirs.**

Any agreement by an heir, unknown or known but unlocated, the primary purpose of which is to locate or recover, or assist in the recovery, of a share in a decedent's estate shall be subject to the provisions of G.S. 116B-78(b)."

SECTION 4. This act becomes effective October 1, 2009, and applies to agreements entered into on or after that date.

VISITOR REGISTRATION SHEET

State Govt / State Personnel — 5/26

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Al Boulin	Constituent of Guilford Co.
Jeff Cox	constituent of Guilford Co.
David Starling	NCDST
Solari	D.S.T.
Patrick Buffkin	NMRS
Darnell Boyd	Rep Adams
Penny Griffin	School of Gov.
Casandra White	NCADC
[signature]	LI
Christopher Jones	NCDST
Allan Beckmann	NCDST

Minutes
House Committee on State Government/State Personnel
Tuesday, June 2, 2009

The House Committee on State Government/State Personnel met on Tuesday, June 2, 2009, at 2:00 PM in Room 424 of the Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Representatives Harrell, Jackson and Mobley, Vice Chairs; and Representatives Burr, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Fred Hines, Toussaint Avent and Jerald Perry. Chairman Wilkins also recognized and thanked pages Betsy Bethune from Wilson, sponsored by Representative Leo Daughtry; Chezney Cunningham from Wake County, sponsored by Rep. Earline Parmon, and Amanda Farquharson of Johnston County, also sponsored by Rep. Daughtry.

The following bills were considered:

SB 712, STATE SURPLUS PROPERTY/NEW RECIPIENT. Senator Neal Hunt, bill sponsor, explained the bill, which amends the definition of "Nonprofit tax exempt organization." used in Part 1, Article 3A of Chapter 143 of the General Statutes establishing the State Surplus Property Agency in the Department of Administration. Christy Agner, spokesperson for the Department of Administration, along with Mickey Sauls and Randy Lee of the Surplus Property Division, stated that the Department could not support the bill in its present form. Chairman Wilkins then appointed a sub-committee to study the bill. He named Representative Sutton as chair and Representatives Mackey and Wiley as members. The sub-committee was asked to bring their recommendation to the full State Government/State Personnel Committee at a future meeting, when the bill would again be heard.

HB 1135, QUI TAM/LIABILITY FOR FALSE CLAIMS. Representative Ross, one of the bill sponsors along with Representatives Hall, Glazier and Martin, explained the bill. By motion of Representative Burr, the Proposed Committee Substitute (PCS) was adopted for discussion. During discussion of the bill, Attorney Jonathan Diesenhaus and Special Deputy Attorney General Charlie Hobgood spoke on the bill. Dave Hinton of the Purple Elephant also commented on the bill. Representative Jackson then made a motion to give the PCS a favorable report, unfavorable to the original bill, with a re-referral to the Judiciary I committee. The motion carried.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1135 A BILL TO BE ENTITLED AN ACT TO DETER AND PUNISH PERSONS WHO MAKE FALSE OR FRAUDULENT CLAIMS FOR PAYMENT BY THE STATE AND TO PROVIDE REMEDIES IN THE FORM OF TREBLE DAMAGES AND CIVIL PENALTIES WHEN MONEY IS OBTAINED FROM THE STATE BY REASON OF SUCH CLAIMS.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY I.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, June 2, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

HB 1135 **Qui Tam/Liability for False Claims**
Representatives Ross, Hall, Glazier and Martin

SB 712 **State Surplus Property/New Recipient**
Senator Hunt

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1135
PROPOSED COMMITTEE SUBSTITUTE H1135-PCS10990-LL-17

Short Title: Qui Tam/Liability for False Claims. (Public)

Sponsors:

Referred to:

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO DETER AND PUNISH PERSONS WHO MAKE FALSE OR FRAUDULENT CLAIMS FOR PAYMENT BY THE STATE AND TO PROVIDE REMEDIES IN THE FORM OF TREBLE DAMAGES AND CIVIL PENALTIES WHEN MONEY IS OBTAINED FROM THE STATE BY REASON OF SUCH CLAIMS.

The General Assembly of North Carolina enacts:

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

"Article 52.
"False Claims Act.

"**§ 1-605. Short title; purpose.**

(a) This Article shall be known and may be cited as the False Claims Act.

(b) The purpose of this Article is to deter persons from knowingly causing or assisting in causing the State to pay claims that are false or fraudulent, and to provide remedies in the form of treble damages and civil penalties when money is obtained from the State by reason of a false or fraudulent claim.

"**§ 1-606. Definitions.**

The following words and phrases when used in this act have the following meanings, unless the context clearly indicates otherwise:

(1) "Attorney General." – The Attorney General of North Carolina, or any deputy, assistant, or associate attorney general.

(2) "Claim." – Any request or demand for money or property made to any employee, officer, or agent of the State, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money or property requested or demanded issued from, or was provided by, the State, or if the State will reimburse that contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(3) "Knowing" and "knowingly." – Whenever a person, with respect to information, does any of the following:

a. Has actual knowledge of the information.

b. Acts in deliberate ignorance of the truth or falsity of the information.

c. Acts in reckless disregard of the truth or falsity of the information.

Proof of specific intent to defraud is not required.

"**§ 1-607. False claims; acts subjecting persons to liability for treble damages; costs and civil penalties; exceptions.**

(a) Liability. – Any person who commits any of the following acts shall be liable to the State for three times the amount of damages that the State sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the State for the costs of a civil action brought to recover any of those penalties or damages, interest on the damages, and the costs of the Attorney General's investigation and legal services, and shall be liable to the State for a civil penalty of not less than five thousand five hundred dollars ($5,500) and not more than eleven thousand dollars ($11,000) for each violation:

(1) Knowingly presents or causes to be presented to any employee, officer, or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval.

(2) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved.

(3) Conspires to defraud the State by getting a false claim allowed or paid, or conspires to defraud the State by knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

(4) Has possession, custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt.

(5) Is authorized to make or deliver a document certifying receipt of property used or to be used by the State and knowingly makes or delivers a receipt that falsely represents the property used or to be used.

(6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property.

(7) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

(b) Damages Limitation. – Notwithstanding the provisions of subsection (a) of this section, the court may limit the damages assessed under subsection (a) of this section to not less than two times the amount of damages that the State sustains because of the act of the person described in that subsection and may assess no civil penalty if the court finds all of the following:

(1) The person committing the violation furnished officials of the State who are responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information.

(2) The person fully cooperated with any investigation of the violation by the State.

(3) At the time the person furnished the State with information about the violation, no criminal prosecution, civil action, or administrative action has commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

(c) Exclusion. – This section does not apply to claims, records, or statements made under Chapter 105 of the General Statutes.

"**§ 1-608. Civil actions for false claims.**

(a) Responsibilities of the Attorney General. – The Attorney General diligently shall investigate a violation under G.S. 1-607. If the Attorney General finds that a person has

violated or is violating G.S. 1-607, the Attorney General may bring a civil action under this section against that person.

(b) Actions by Private Persons. – A person may bring a civil action for a violation of G.S. 1-607 for the person and for the State, as follows:

(1) The action shall be brought in the name of the State, and the person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be voluntarily dismissed by the person bringing the action only if the court and Attorney General have given written consent to the dismissal.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General pursuant to applicable rules of the North Carolina Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 120 days, and shall not be served on the defendant until the court so orders. The State may elect to intervene and proceed with the action within 120 days after it receives both the complaint and the material evidence and information.

(3) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subdivision (2) of this subsection or may move for a partial lifting of the seal. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until after the complaint is unsealed and served upon the defendant pursuant to the North Carolina Rules of Civil Procedure.

(4) Before the expiration of the 120-day period or any extensions obtained under subdivision (3) of this subsection, the State shall:

a. Proceed with the action, in which case the action shall be conducted by the State; or

b. Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings a valid action under this subsection, no person other than the State may intervene or bring a related action based on the facts underlying the pending action.

"**§ 1-609. Rights of the parties to qui tam actions.**

(a) If the State proceeds with an action under G.S. 1-608(b), it shall have the primary responsibility for prosecuting the action and shall not be bound by an act of the qui tam plaintiff. The qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations set forth in subsections (b) through (e) of this section.

(b) The State may seek to dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the State of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity for a hearing on the motion.

(c) The State may settle the action with the defendant notwithstanding the objections of the qui tam plaintiff if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be heard in camera.

(d) Upon a showing by the State that the qui tam plaintiff's unrestricted participation during the course of the litigation would interfere with or unduly delay the State's prosecution of the case or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:

(1) Limiting the number of witnesses the qui tam plaintiff may call;

(2) Limiting the length of the testimony of those witnesses;
(3) Limiting the qui tam plaintiff's cross-examination of witnesses; or
(4) Otherwise limiting the participation by the qui tam plaintiff in the litigation.

(e) Upon a showing by the defendant that the qui tam plaintiff's unrestricted participation during the course of the litigation would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the qui tam plaintiff in the litigation.

(f) If the State elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the State's expense. When a qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the State to intervene at a later date upon a showing of good cause.

(g) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the qui tam plaintiff would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 120 days. Such a showing shall be conducted in camera. The court may extend the 120-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigations or proceedings.

(h) Notwithstanding the provisions of G.S. 1-608(b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the qui tam plaintiff shall have the same rights in that proceeding as the qui tam plaintiff would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the State, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

"**§ 1-610. Award to qui tam plaintiff.**

(a) Except as otherwise provided in this section, if the State proceeds with an action brought by a qui tam plaintiff under G.S. 1-608(b), the qui tam plaintiff shall, subject to subsection (b) of this section, receive at least fifteen percent (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement of the claim, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action.

(b) Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions (i) in a criminal, civil, or administrative hearing at the State or federal level, (ii) in a congressional, legislative, administrative, General Accounting Office, or State Auditor's report, hearing, audit, or investigation, or (iii) from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent (10%) of the proceeds, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation.

(c) Any payment to a qui tam plaintiff under subsection (a) or (b) of this section shall be made from the proceeds.

(d) The qui tam plaintiff shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(e) If the State does not proceed with an action under this Article, the qui tam plaintiff shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall not be less than twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and shall be paid out of the proceeds. The qui tam plaintiff shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(f) Whether or not the State proceeds with the action, if the court finds that the qui tam plaintiff planned and initiated the violation of G.S. 1-607 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the qui tam plaintiff would otherwise receive under subsection (a), (b), or (e) of this section, taking into account the role of the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the qui tam plaintiff is convicted of criminal conduct arising from his or her role in the violation of G.S. 1-607, the qui tam plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such a dismissal shall not prejudice the right of the State to continue the action.

(g) If the State does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

"**§ 1-611. Certain actions barred.**

(a) No court shall have jurisdiction over an action brought under G.S. 1-608(b) against a member of the General Assembly, a member of the judiciary, or a senior executive branch official acting in their official capacity if the action is based on evidence or information known to the State when the action was brought.

(b) In no event may a person bring an action under G.S. 1-608(b) that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party.

(c) No court shall have jurisdiction over an action brought under this Article based on information discovered by a present or former employee of the State based on information discovered during the course of the present or former employee's employment unless that employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels, and unless the State failed to act on the information provided within a reasonable period of time.

(d) No court shall have jurisdiction over an action under G.S. 108A-70.12 based upon the public disclosure of allegations or transactions (i) in a criminal, civil, or administrative hearing at the State or federal level, (ii) in a congressional, legislative, administrative, General Accounting Office, or State Auditor's report, hearing, audit, or investigation, (iii) or from the news media, unless the action is brought by the Attorney General, or the person bringing the action is an original source of the information. For purposes of this section, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the State before filing an action under G.S. 108A-70.12 that is based on the information.

"**§ 1-612. State not liable for certain expenses.**

The State is not liable for expenses that a person incurs in bringing an action under G.S. 1-608(b).

"**§ 1-613. Private action for retaliation action.**

Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in

furtherance of an action under this Article, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this Article, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in superior court for the relief provided in this section.

"**§ 1-614. Civil investigative demand.**

(a) A civil investigative demand is an administrative subpoena. Whenever the Attorney General has reason to believe that a person has information or is in possession, custody, or control of any document or other object relevant to an investigation or that would lead to the discovery of relevant information in an investigation of a violation of G.S. 1-607, the Attorney General may issue in writing and cause to be served upon the person, before bringing or intervening in an action under G.S. 1-608 or other false claims law, a civil investigative demand requiring the person to appear and be examined under oath, to answer written interrogatories under oath, and to produce any documents or objects for their inspection and copying.

(b) The civil investigative demand shall:

(1) Be served upon the person in the manner required for service of process in civil actions and may be served by the Attorney General or investigator assigned to the North Carolina Department of Justice;

(2) Describe the nature of the conduct constituting the violation under investigation;

(3) Describe the class or classes of any documents or objects to be produced with sufficient definiteness to permit them to be fairly identified;

(4) Contain a copy of any written interrogatories to be answered;

(5) Prescribe a reasonable date and time at which the person shall appear to testify, answer any written interrogatories, or produce any document or object;

(6) Advise the person that objections to or reasons for not complying with the demand may be filed with the Attorney General on or before that date and time;

(7) Specify a place for the taking of testimony;

(8) Designate a person to whom answers to written interrogatories shall be submitted and to whom any document or object shall be produced; and

(9) Contain a copy of subsections (b) and (c) of this section.

(c) The date within which to answer any written interrogatories and within which any document or object must be produced shall be more than 30 days after the civil investigative demand has been served upon the person. The date within which a person must appear to testify shall be more than 15 days after the demand has been served upon a person who resides out-of-state or more than 10 days after the demand has been served upon a person who resides in-State.

(d) A civil investigative demand may include an express demand for any product of discovery. A product of discovery includes the original or duplicate of any deposition, interrogatory, document, thing, examination, or admission, that is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature, and any digest, compilation, and index of any product of discovery. Whenever a civil investigative demand is an express demand for any product of discovery, a copy of the demand shall be served on the person from whom the discovery was obtained and shall notify the person to whom the demand is issued of the date on which the copy was served. A demand for a product of discovery shall not be returned or returnable until 30 days after a copy of the demand has been served on the

person from whom the discovery was obtained. Any demand that is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law, other than this section, preventing or restraining disclosure of the product of discovery to any person. Disclosure of any product of discovery pursuant to any express demand does not constitute a waiver of any right or privilege that the person making the disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(e) The person before whom the oral examination is to be taken shall put the person to be examined under oath and shall personally, or by someone acting under the person's direction and in the person's presence, record the testimony of the person to be examined. The Attorney General may exclude from the place where the examination is held all persons except the person giving the testimony, the attorney or other representative of the person giving the testimony, the Attorney General conducting the examination, the investigator assisting the Attorney General, the stenographer, and any other person agreed upon by the Attorney General and the person giving the testimony. The oral examination may be taken in the county where the person resides, is found, or transacts business, or in Wake County, or in any other place as may be agreed upon by the Attorney General and person to be examined. When the testimony is transcribed, the person shall have a reasonable opportunity to examine and read the transcript, unless an examination and reading are waived by the person. Any changes in form or substance which the person desires to make shall be entered and identified upon the transcript by the person. The transcript shall then be signed by the person, unless the person in writing waives the signing, is ill, cannot be found, or refuses to sign.

(f) Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under sworn certificate by the person to whom the demand is directed, or in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. If a person objects to any interrogatory, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(g) The production of documents and objects in response to a civil investigative demand served under this section shall be made under a sworn certificate by the person to whom the demand is directed, or in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available. Upon written agreement between the person served with the civil investigative demand and the Attorney General, the person may substitute copies for originals of all or any part of the documents requested.

(h) If the person being examined refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of the person may be compelled in accordance with the provisions of Article 61 of Chapter 15A, Criminal Procedure Act.

(i) Any person appearing for oral testimony under a civil investigative demand issued pursuant to this section shall be entitled to the same fees and allowances paid to witnesses in the General Court of Justice.

(j) If a person objects to or otherwise fails to comply with a civil investigative demand served upon the person under subsection (a) of this section, the Attorney General may file an action in superior court for an order to enforce the demand. Venue for the action to enforce the demand shall be in either Wake County or the county in which the person resides, is found, or

transacts business. Notice of a hearing on the action to enforce the demand and a copy of the action shall be served upon the person in the same manner as prescribed in the Rules of Civil Procedure. If the court finds that the demand is proper, that there is reasonable cause to believe that there may have been a violation of G.S. 1-607, and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe.

(k) If the person fails to comply with an order entered pursuant to subsection (i) of this section, the court may:

(1) Adjudge the person to be in contempt of court;

(2) Grant injunctive relief against the person to whom the demand is issued to restrain the conduct which is the subject of the investigation; or

(3) Grant any other relief as the court may deem proper.

(l) Any person who has received a civil investigative demand issued under this section or, in the case of an express demand for any product of discovery, the person from whom discovery was obtained may file and serve on the investigator identified in the demand, a petition for an order of the court to modify or set aside the demand. The petition may be filed in superior court in either Wake County or the county in which the person resides, is found, or transacts business, or, in the case of a petition to modify an express demand for any product of discovery, the petition shall be filed only in the court in which the proceeding in which the discovery was obtained or was last pending. Any petition under this subsection must be filed within 30 days after the date of service of the civil investigative demand or before the return date specified in the demand, whichever date is earlier, or within a longer period as may be prescribed in writing by the investigator identified in the demand. The petition shall specify each ground upon which the petitioner relies in seeking relief and may be based upon any failure to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(m) Any transcript of oral testimony, answers to written interrogatories, and documents and objects produced pursuant to this section may be used in connection with any civil action brought under G.S. 1-608.

(n) The Attorney General shall designate an investigator assigned to the North Carolina Department of Justice to serve as a custodian of documents and objects, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate any additional investigators as the Attorney General determines from time to time to be necessary to serve as deputies or successors to the custodian. An investigator who receives any documents or objects, answers to interrogatories, or transcripts of oral testimony under this section may serve as the custodian or may transmit them to another investigator designated as the custodian. The custodian shall take physical possession of any documents, objects, answers, or transcripts and shall be responsible for the use made of them and for the return of documents and objects.

(o) The custodian may cause the preparation of copies of documents, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any investigator or other officer or employee of the North Carolina Department of Justice. The custodian shall make documents, objects, answers, transcripts, and copies thereof available for examination and use by the Attorney General and any investigator or other officer or employee of the North Carolina Department of Justice in connection with the taking of oral testimony under this section and any investigation or action brought pursuant to G.S. 1-608.

(p) Except as otherwise provided in this section, no documents, objects, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the

custodian, shall be available for examination by any individual other than an employee of the North Carolina Department of Justice authorized under this section. The prohibition in the preceding sentence on the availability of documents, objects, answers, or transcripts shall not apply if consent is given by the person who produced the documents, objects, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand, consent is given by the person from whom the discovery was obtained, or prevent disclosure to any other federal or State agency for use by that agency in furtherance of its statutory responsibilities upon application made by the Attorney General to the superior court showing substantial need for the use of the information by any agency in furtherance of its statutory responsibilities.

(q) While in the possession of the custodian and under reasonable terms and conditions as the Attorney General shall prescribe, documents, objects, and answers to interrogatories shall be available for examination by the person who produced the documents, objects, or answers, or by a representative of that person authorized by that person to examine the documents, objects, and answers; and transcripts of oral testimony shall be available for examination by the person who produced the testimony, or by a representative of that person authorized by that person to examine the transcripts.

(r) If any documents or objects have been produced by any person in the course of any investigation pursuant to a civil investigative demand under this section, and any case or proceeding before any court arising out of the investigation, or any proceeding before any agency involving the documents or objects, has been completed, or no case or proceeding in which the documents or objects may be used has been commenced within a reasonable time after completion of the investigation, the custodian shall, upon written request of the person who produced the documents or objects, return to the person any documents or objects that have not passed into the control of any court or agency.

(s) The North Carolina Rules of Civil Procedure shall apply to this section to the extent that the rules are not inconsistent with the provisions of this section.

"**§ 1-615. False claims procedure.**

(a) Statute of Limitations. – A civil action under G.S. 1-608 may not be brought (i) more than six years after the date on which the violation of G.S. 1-607 was committed or (ii) more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the State of North Carolina charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

(b) Burden of Proof. – In any action brought under G.S. 1-608, the State or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(c) Estoppel. – Notwithstanding any other provision of law, a final judgment rendered in favor of the State in a criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and which is brought under G.S. 1-608.

(d) Venue. – Venue for any action brought pursuant to G.S. 1-608 shall be in either Wake County or in any county in which a claim originated, or in which any statement or record was made, or acts done, or services or property rendered in connection with any act constituting part of the violation of this Article.

"**§ 1-616. Remedies under other laws; severability of provisions; liberality of legislative construction; adoption of legislative history.**

(a) Remedies Under Other Laws. – The provisions of this Article are not exclusive, and the remedies provided for in this Article shall be in addition to any other remedies provided for

in any other law or available under common law. No criminal or administrative action need be brought against any provider as a condition for establishing civil liability under this section.

(b) If any provision of this Article or the application of this Article to any person or circumstance is held to be unconstitutional, the remainder of this Article and the application of the provision to other persons or circumstances shall not be affected by that holding.

(c) This Article shall be interpreted and construed so as to be consistent with the federal False Claims Act, 31 U.S.C. § 3729, et seq., and any subsequent amendments to that act.

"**§ 1-617. Rules.**

The Attorney General may adopt rules necessary to carry out the purposes set forth in this Article."

SECTION 2. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"**§ 108A-63.1. Health care fraud subpoena to produce documents.**

(a) The Attorney General, acting through the Medicaid Investigations Unit of the Department of Justice, may, when engaged in an investigation of an alleged violation of G.S. 108A-63 and prior to the arrest of a suspect, issue in writing and cause to be served a subpoena to produce documents upon any corporation or governmental entity requiring the production of any records, books, papers, electronic media, objects, or other documents which may be relevant to a criminal investigation of a violation of G.S. 108A-63.

(b) A subpoena under this section may require the custodian of records of the corporation or governmental entity to produce an affidavit certifying that the custodian made a thorough and diligent search for the documents requested and that the documents produced constitute all the records requested to the best of the custodian's knowledge, information, and belief.

(c) A subpoena under this section shall describe the documents required to be produced and prescribe a return date within a reasonable period of time, of no less than 20 days from the date of service, within which the documents can be assembled and made available.

(d) A corporation or governmental entity may comply with a subpoena issued under this section by delivering the documents to the Medicaid Investigations Unit:

(1) By hand delivery;

(2) By mailing the documents by certified mail;

(3) By making the documents reasonably available for transfer to an agent of the Medicaid Investigations Unit at a place of business of the corporation or governmental entity; or

(4) If agreed to by the Medicaid Investigations Unit and the corporation or governmental entity, by any other means.

(e) A corporation or governmental entity may move to quash or modify a subpoena issued under this section if it is oppressive or unreasonable. The motion must be made before the time specified in the subpoena for production and may be made before a judge of the superior court.

(f) In the case of failure by any corporation or governmental entity without adequate excuse to obey a subpoena issued under this section, the Attorney General may invoke the aid of a judge of the superior court. The court may issue an order requiring the subpoenaed corporation or governmental entity to appear before the Attorney General to produce records. Failure to obey the order of the court may be punished as contempt of court."

SECTION 3. G.S. 108A-63 reads as rewritten:

"**§ 108A-63. Medical assistance provider fraud.**

(a) It shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully make or cause to be made any false statement or representation of a material fact:

(1) In any application for payment under this Part, or for use in determining entitlement to such payment; or

(2) With respect to the conditions or operation of a provider or facility in order that such provider or facility may qualify or remain qualified to provide assistance under this Part.

(b) It shall be unlawful for any provider of medical assistance to knowingly and willfully conceal or fail to disclose any fact or event affecting:

(1) His initial or continued entitlement to payment under this Part; or

(2) The amount of payment to which such person is or may be entitled.

(c) ~~Any~~Except as otherwise provided in subsection (e) of this section, any person who violates a provision of this section shall be guilty of a Class I felony.

(d) "Provider" shall include any person who provides goods or services under this Part and any other person acting as an employee, representative or agent of such person.

(e) In connection with the delivery of or payment for benefits, items, or services under this Part, it shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully execute, or attempt to execute, a scheme or artifice to:

(1) Defraud the Medical Assistance Program.

(2) Obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, the Medical Assistance Program.

If the value of the benefits, items, or services is one hundred thousand dollars ($100,000) or more, a violation of this subsection is a Class C felony. If the value of the benefits, items, or services is less than one hundred thousand dollars ($100,000), a violation of this subsection is a Class H felony.

(f) It shall be unlawful for any provider to knowingly and willfully obstruct, delay, or mislead or attempt to obstruct, delay, or mislead an investigation of a violation of this section by the Attorney General's office.

(g) It shall be unlawful for any provider to knowingly and willfully make or cause to be made a false entry in, alter, destroy, or conceal a financial, medical, or other record related to the provision of a benefit, item, or service under this Part with the intent to defraud."

SECTION 4. Section 1 of this act becomes effective January 1, 2010, and applies to acts committed on or after that date, except that a civil action may be based on activity occurring prior to the effective date if the activity would otherwise be covered under G.S. 108A-70.12 and the limitations period set in G.S. 108A-70.13 has not lapsed. Section 3 of this act becomes effective December 1, 2009. The remainder of this act becomes effective July 1, 2009.

HOUSE BILL 1135:
Qui Tam/Liability for False Claims

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary I	**Date:**	June 2, 2009
Introduced by:	Reps. Ross, Hall, Glazier, Martin	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H1135-CSLL-17		

SUMMARY: ***House Bill 1135 creates a new Article entitled the False Claims Act, which is intended to deter persons from submitting or assisting in the submission of false claims to the State. The bill makes the penalty for obtaining money by false claims three times the amount of damages plus costs and civil penalties. The bill also authorizes private persons to file an action on behalf of the State and to share in any proceeds under certain circumstances.***

Section 2 adds a new section to the law allowing the Attorney General to issue subpoenas to produce records to corporations or other entities in connection with criminal investigations of health care providers.

Section 3 amends existing law to make it a Class C felony for a provider to defraud Medicaid if the amount is $100,000 or more and a Class H felony if the amount is less than $100,000.

The PCS makes technical changes to Sections 1 and 3, and changes Section 2 by simplifying the procedure for production of a subpoena to produce documents.

CURRENT LAW:

Under current law, a person would be guilty of the crime of obtaining property by false pretenses if the person makes a false representation of fact or a future event that is calculated and intended to deceive another person and in fact deceives another person, and the defendant thereby obtains money or property from the other person. Obtaining property by false pretenses is punishable as a Class H felony or a Class C felony if the property taken is $100,000.00 or more.

If a false representation has been made and has in fact deceived another person, but the defendant has not gained possession of the property, the crime has not occurred.

G.S. 108A-63 makes it a Class I felony for a Medicaid provider to make false representations on an application to determine eligibility or to conceal or fail to disclose facts affecting continued eligibility or the amount of payments.

BILL ANALYSIS:

House Bill 1135 adds a new Article to the Civil Procedure Law, entitled 'False Claims Act.' The act includes the following provisions:

- Creates a civil remedy against persons who knowingly cause or conspire to cause the payment or approval for payment of a false or fraudulent claim by the State. Such person is liable for treble damages plus the costs of the action and the Attorney General's investigation. In addition, the person is liable for a civil penalty of not less than $5,000 or more than $11,000 for each violation.
- Authorizes a private person to bring a civil action for a violation of this section in the name of the State and the individual who is known as the qui tam plaintiff. The complaint must be

served on the Attorney General who may elect to intervene in the case. The complaint is kept under seal for 120 days and may not be served on the defendant until the court orders. The Attorney General has the duty to investigate potential violations and may bring an action under the section.

- Authorizes the State to limit the participation of a qui tam plaintiff, if the State proceeds with the action. If the action is successful, the qui tam plaintiff may receive at least 15% but not more than 25% of the proceeds of the action. In addition, if the qui tam plaintiff can receive up to 10% for providing specific information. If the State does not proceed with the action, and the action is successful, the plaintiff may be awarded between 25% and 30% of the proceeds. If the action is unsuccessful, the defendant may be awarded attorneys' fees and expenses if the court finds that the case was frivolous or that the plaintiff's purpose was harassment.
- Bars certain actions, including those brought against certain government officials and Medicaid fraud cases which are based on information obtained in a criminal, civil, or administrative hearing, or a legislative, GAO, or State Auditor report or investigation.
- Authorizes the Attorney General to issue civil investigative demands to any person having information or custody or control of documents relevant to an investigation. A person served with interrogatories must be answered within 30 days. If the person is out-of-state, he or she must be given at least 15 days to appear, if the person is in State, he or she must be given at least 10 days. A person who claims the privilege against self incrimination may be compelled to testify by the grant of immunity under the Criminal Procedure Act. The Attorney General may enforce a demand in superior court.
- Establishes the procedure for false claim actions. The statute of limitation is the later of 6 years after the violation was committed, or 3 years after the facts are known or should have been known, but in no event more than 10 years after the violation was committed. The State and/or the qui tam plaintiff have the burden of proving the case by a preponderance of the evidence.

Section 2 of the bill adds a new section to the law governing Medicaid fraud cases. The section authorizes the Attorney General to issue subpoenas to produce documents to any corporation or government entity with information relevant to a criminal investigation. The subpoena may require the custodian to certify that all available records have been provided. Failure to respond to the subpoena can be punished as a contempt of court.

Section 3 amends the law governing Medicaid provider fraud by adding language making it a Class C felony to obtain money by false pretenses if the amount is $100,000 or more. It is a Class H felony if the amount is less than $100,000. The section also makes it unlawful to obstruct and investigation or to conceal, alter or destroy records with the intent to defraud.

EFFECTIVE DATE: Section 1 becomes effective January 1, 2010 and applies to acts committed on or after that date, except that a civil action may be based on activity occurring prior to that date if the activity would have been covered G.S. 108A-70.12 (Medicaid provider civil liability). Section 3 becomes effective December 1, 2009, and the remainder of the act becomes effective July 1, 2009.

HOUSE BILL 1135

Short Title:	Qui Tam/Liability for False Claims.	(Public)
Sponsors:	Representatives Ross, Hall, Glazier, Martin (Primary Sponsors); Faison, Farmer-Butterfield, Harrison, Holliman, and Lucas.	
Referred to:	State Government/State Personnel, if favorable, Judiciary I.	

April 7, 2009

A BILL TO BE ENTITLED

AN ACT TO DETER AND PUNISH PERSONS WHO MAKE FALSE OR FRAUDULENT CLAIMS FOR PAYMENT BY THE STATE AND TO PROVIDE REMEDIES IN THE FORM OF TREBLE DAMAGES AND CIVIL PENALTIES WHEN MONEY IS OBTAINED FROM THE STATE BY REASON OF SUCH CLAIMS.

The General Assembly of North Carolina enacts:

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

"Article 52.
"False Claims Act.

"**§ 1-605. Short title; purpose.**

(a) This Article shall be known and may be cited as the False Claims Act.

(b) The purpose of this Article is to deter persons from knowingly causing or assisting in causing the State to pay claims that are false or fraudulent, and to provide remedies in the form of treble damages and civil penalties when money is obtained from the State by reason of a false or fraudulent claim.

"**§ 1-606. Definitions.**

The following words and phrases when used in this act have the following meanings, unless the context clearly indicates otherwise:

(1) "Attorney General." – The Attorney General, or any deputy, assistant, or associate attorney general.

(2) "Claim." – Any request or demand for money or property made to any employee, officer, or agent of the State, or to any contractor, grantee, or other recipient, whether under contract or not, if any portion of the money or property requested or demanded issued from, or was provided by, the State, or if the State will reimburse that contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(3) "Knowing" and "knowingly." – Whenever a person, with respect to information, does any of the following:

a. Has actual knowledge of the information.

b. Acts in deliberate ignorance of the truth or falsity of the information.

c. Acts in reckless disregard of the truth or falsity of the information.

Proof of specific intent to defraud is not required.

"**§ 1-607. False claims; acts subjecting persons to liability for treble damages; costs and civil penalties; exceptions.**

(a) Liability. – Any person who commits any of the following acts shall be liable to the State for three times the amount of damages that the State sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the State for the costs of a civil action brought to recover any of those penalties or damages, interest on the damages, and the costs of the Attorney General's investigation and legal services, and shall be liable to the State for a civil penalty of not less than five thousand five hundred dollars ($5,500) and not more than eleven thousand dollars ($11,000) for each violation:

(1) Knowingly presents or causes to be presented to any employee, officer, or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval.

(2) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved.

(3) Conspires to defraud the State by getting a false claim allowed or paid, or conspires to defraud the State by knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

(4) Has possession, custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt.

(5) Is authorized to make or deliver a document certifying receipt of property used or to be used by the State and knowingly makes or delivers a receipt that falsely represents the property used or to be used.

(6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property.

(7) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State.

(b) Damages Limitation. – Notwithstanding the provisions of subsection (a) of this section, the court may limit the damages assessed under subsection (a) of this section to not less than two times the amount of damages that the State sustains because of the act of the person described in that subsection, and may assess no civil penalty, if the court finds all of the following:

(1) The person committing the violation furnished officials of the State who are responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information.

(2) The person fully cooperated with any investigation of the violation by the State.

(3) At the time the person furnished the State with information about the violation, no criminal prosecution, civil action, or administrative action has commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.

(c) Exclusion. – This section does not apply to claims, records, or statements made under Chapter 105 of the General Statutes.

"**§ 1-608. Civil actions for false claims.**

(a) Responsibilities of the Attorney General. – The Attorney General diligently shall investigate a violation under G.S. 1-607. If the Attorney General finds that a person has violated or is violating G.S. 1-607, the Attorney General may bring a civil action under this section against that person.

(b) Actions by Private Persons. – A person may bring a civil action for a violation of G.S. 1-607 for the person and for the State, as follows:

(1) The action shall be brought in the name of the State, and the person bringing the action shall be referred to as the qui tam plaintiff. Once filed, the action may be voluntarily dismissed by the person bringing the action only if the court and Attorney General have given written consent to the dismissal.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Attorney General pursuant to applicable rules of the North Carolina Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 120 days, and shall not be served on the defendant until the court so orders. The State may elect to intervene and proceed with the action within 120 days after it receives both the complaint and the material evidence and information.

(3) The State may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under subdivision (2) of this subsection or may move for a partial lifting of the seal. Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until after the complaint is unsealed and served upon the defendant pursuant to the North Carolina Rules of Civil Procedure.

(4) Before the expiration of the 120-day period or any extensions obtained under subdivision (3) of this subsection, the State shall:

a. Proceed with the action, in which case the action shall be conducted by the State; or

b. Notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

(5) When a person brings a valid action under this subsection, no person other than the State may intervene or bring a related action based on the facts underlying the pending action.

"**§ 1-609. Rights of the parties to qui tam actions.**

(a) If the State proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the qui tam plaintiff. The qui tam plaintiff shall have the right to continue as a party to the action, subject to the limitations set forth in subsections (b) through (e) of this section.

(b) The State may seek to dismiss the action for good cause notwithstanding the objections of the qui tam plaintiff if the qui tam plaintiff has been notified by the State of the filing of the motion and the court has provided the qui tam plaintiff with an opportunity for a hearing on the motion.

(c) The State may settle the action with the defendant notwithstanding the objections of the qui tam plaintiff if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, the hearing may be heard in camera.

(d) Upon a showing by the State that the qui tam plaintiff's unrestricted participation during the course of the litigation would interfere with or unduly delay the State's prosecution of the case or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:

(1) Limiting the number of witnesses the qui tam plaintiff may call;

(2) Limiting the length of the testimony of those witnesses;

(3) Limiting the qui tam plaintiff's cross-examination of witnesses; or

(4) Otherwise limiting the participation by the qui tam plaintiff in the litigation.

(e) Upon a showing by the defendant that the qui tam plaintiff's unrestricted participation during the course of the litigation would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the qui tam plaintiff in the litigation.

(f) If the State elects not to proceed with the action, the qui tam plaintiff shall have the right to conduct the action. If the State so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts at the State's expense. When a qui tam plaintiff proceeds with the action, the court, without limiting the status and rights of the qui tam plaintiff, may permit the State to intervene at a later date upon a showing of good cause.

(g) Whether or not the State proceeds with the action, upon a showing by the State that certain actions of discovery by the qui tam plaintiff would interfere with the State's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 120 days. Such a showing shall be conducted in camera. The court may extend the 120-day period upon a further showing in camera that the State has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigations or proceedings.

(h) Notwithstanding the provisions of G.S. 1-608(b), the State may elect to pursue its claim through any alternate remedy available to the State, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the qui tam plaintiff shall have the same rights in that proceeding as the qui tam plaintiff would have had if the action had continued under this section. Any finding of fact or conclusion of law made in the other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court of the State, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

"**§ 1-610. Award to qui tam plaintiff.**

(a) Except as otherwise provided in this section, if the State proceeds with an action brought by a qui tam plaintiff under G.S. 1-608(b), the qui tam plaintiff shall, subject to subsection (b) of this section, receive at least fifteen percent (15%) but not more than twenty-five percent (25%) of the proceeds of the action or settlement of the claim, depending upon the extent to which the qui tam plaintiff substantially contributed to the prosecution of the action.

(b) Where the action is one which the court finds to be based primarily on disclosures of specific information, other than information provided by the qui tam plaintiff, relating to allegations or transactions (i) in a criminal, civil, or administrative hearing at the State or federal level, (ii) in a congressional, legislative, administrative, General Accounting Office, or State Auditor's report, hearing, audit, or investigation, or (iii) from the news media, the court may award such sums as it considers appropriate, but in no case more than ten percent (10%) of the proceeds, taking into account the significance of the information and the role of the qui tam plaintiff in advancing the case to litigation.

(c) Any payment to a qui tam plaintiff under subsections (a) or (b) of this section shall be made from the proceeds.

(d) The qui tam plaintiff shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(e) If the State does not proceed with an action under this Article, the qui tam plaintiff shall receive an amount which the court decides is reasonable for collecting the civil penalty

and damages. The amount shall not be less than twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement and shall be paid out of the proceeds. The qui tam plaintiff shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(f) Whether or not the State proceeds with the action, if the court finds that the qui tam plaintiff planned and initiated the violation of G.S. 1-607 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the qui tam plaintiff would otherwise receive under subsections (a), (b), or (e) of this section, taking into account the role of the qui tam plaintiff in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the qui tam plaintiff is convicted of criminal conduct arising from his or her role in the violation of G.S. 1-607, the qui tam plaintiff shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such a dismissal shall not prejudice the right of the State to continue the action.

(g) If the State does not proceed with the action and the qui tam plaintiff conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the qui tam plaintiff was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

"**§ 1-611. Certain actions barred.**

(a) No court shall have jurisdiction over an action brought under G.S. 1-608(b) against a member of the General Assembly, a member of the judiciary, or a senior executive branch official acting in their official capacity if the action is based on evidence or information known to the State when the action was brought.

(b) In no event may a person bring an action under G.S. 1-608(b) that is based upon allegations or transactions that are the subject of a civil suit or an administrative civil money penalty proceeding in which the State is already a party.

(c) No court shall have jurisdiction over an action brought under this Part based on information discovered by a present or former employee of the State based on information discovered during the course of the present or former employee's employment unless that employee first, in good faith, exhausted existing internal procedures for reporting and seeking recovery of the falsely claimed sums through official channels, and unless the State failed to act on the information provided within a reasonable period of time.

(d) No court shall have jurisdiction over an action under G.S. 108A-70.17 based upon the public disclosure of allegations or transactions (i) in a criminal, civil, or administrative hearing at the State or federal level, (ii) in a congressional, legislative, administrative, General Accounting Office, or State Auditor's report, hearing, audit, or investigation, (iii) or from the news media, unless the action is brought by the Attorney General, or the person bringing the action is an original source of the information. For purposes of this section, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the State before filing an action under G.S. 108A-70.17 that is based on the information.

"**§ 1-612. State not liable for certain expenses.**

The State is not liable for expenses that a person incurs in bringing an action under G.S. 1-608(b).

"**§ 1-613. Private action for retaliation action.**

Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this Article, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this Article, shall be entitled to all relief

necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status the employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in superior court for the relief provided in this section.

"**§ 1-614. Civil investigative demand.**

(a) A civil investigative demand is an administrative subpoena. Whenever the Attorney General has reason to believe that a person has information or is in possession, custody, or control of any document or other object relevant to an investigation or that would lead to the discovery of relevant information in an investigation of a violation of G.S. 1-607, the Attorney General may issue in writing and cause to be served upon the person, before bringing or intervening in an action under G.S. 1-608 or other false claims law, a civil investigative demand requiring the person to appear and be examined under oath, to answer written interrogatories under oath, and to produce any documents or objects for their inspection and copying.

(b) The civil investigative demand shall:

(1) Be served upon the person in the manner required for service of process in civil actions and may be served by the Attorney General or investigator assigned to the North Carolina Department of Justice;

(2) Describe the nature of the conduct constituting the violation under investigation;

(3) Describe the class or classes of any documents or objects to be produced with sufficient definiteness to permit them to be fairly identified;

(4) Contain a copy of any written interrogatories to be answered;

(5) Prescribe a reasonable date and time at which the person shall appear to testify, answer any written interrogatories, or produce any document or object;

(6) Advise the person that objections to or reasons for not complying with the demand may be filed with the Attorney General on or before that date and time;

(7) Specify a place for the taking of testimony;

(8) Designate a person to whom answers to written interrogatories shall be submitted and to whom any document or object shall be produced; and

(9) Contain a copy of subsections (b) and (c) of this section.

(c) The date within which to answer any written interrogatories and within which any document or object must be produced shall be more than 30 days after the civil investigative demand has been served upon the person. The date within which a person must appear to testify shall be more than 15 days after the demand has been served upon a person who resides out-of-state or more than 10 days after the demand has been served upon a person who resides in-State.

(d) A civil investigative demand may include an express demand for any product of discovery. A product of discovery includes the original or duplicate of any deposition, interrogatory, document, thing, examination, or admission, that is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature, and any digest, compilation, and index of any product of discovery. Whenever a civil investigative demand is an express demand for any product of discovery, a copy of the demand shall be served on the person from whom the discovery was obtained and shall notify the person to whom the demand is issued of the date on which the copy was served. A demand for a product of discovery shall not be returned or returnable until 30 days after a copy of the demand has been served on the person from whom the discovery was obtained. Any demand that is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law, other than this

section, preventing or restraining disclosure of the product of discovery to any person. Disclosure of any product of discovery pursuant to any express demand does not constitute a waiver of any right or privilege that the person making the disclosure may be entitled to invoke to resist discovery of trial preparation materials.

(e) The person before whom the oral examination is to be taken shall put the person to be examined on oath and shall personally, or by someone acting under the person's direction and in the person's presence, record the testimony of the person to be examined. The Attorney General may exclude from the place where the examination is held all persons except the person giving the testimony, the attorney or other representative of the person giving the testimony, the Attorney General conducting the examination, the investigator assisting the Attorney General, the stenographer, and any other person agreed upon by the Attorney General and the person giving the testimony. The oral examination may be taken in the county where the person resides, is found, or transacts business, or in Wake County, or in any other place as may be agreed upon by the Attorney General and person to be examined. When the testimony is transcribed, the person shall have a reasonable opportunity to examine and read the transcript, unless an examination and reading are waived by the person. Any changes in form or substance which the person desires to make shall be entered and identified upon the transcript by the person. The transcript shall then be signed by the person, unless the person in writing waives the signing, is ill, cannot be found, or refuses to sign.

(f) Each interrogatory in a civil investigative demand served under this section shall be answered separately and fully in writing under oath and shall be submitted under sworn certificate by the person to whom the demand is directed, or in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. If a person objects to any interrogatory, the reasons for the objection shall be stated in the certificate instead of an answer. The certificate shall state that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted. To the extent that any information is not furnished, the information shall be identified and reasons set forth with particularity regarding the reasons why the information was not furnished.

(g) The production of documents and objects in response to a civil investigative demand served under this section shall be made under a sworn certificate by the person to whom the demand is directed, or in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available. Upon written agreement between the person served with the civil investigative demand and the Attorney General, the person may substitute copies for originals of all or any part of the documents requested.

(h) If the person being examined refuses to answer any question on the grounds of the privilege against self-incrimination, the testimony of the person may be compelled in accordance with the provisions of Article 61 of Chapter 15A, Criminal Procedure Act.

(i) Any person appearing for oral testimony under a civil investigative demand issued pursuant to this section shall be entitled to the same fees and allowances paid to witnesses in the General Court of Justice.

(j) If a person objects to or otherwise fails to comply with a civil investigative demand served upon the person under subsection (a) of this section, the Attorney General may file an action in superior court for an order to enforce the demand. Venue for the action to enforce the demand shall be in either Wake County or the county in which the person resides, is found, or transacts business. Notice of a hearing on the action to enforce the demand and a copy of the action shall be served upon the person in the same manner as prescribed in the Rules for Civil

Procedure. If the court finds that the demand is proper, that there is reasonable cause to believe that there may have been a violation of G.S. 1-607, and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe.

(k) If the person fails to comply with an order entered pursuant to subsection (i) of this section, the court may:

(1) Adjudge the person to be in contempt of court;

(2) Grant injunctive relief against the person to whom the demand is issued to restrain the conduct which is the subject of the investigation; or

(3) Grant any other relief as the court may deem proper.

(l) Any person who has received a civil investigative demand issued under this section or, in the case of an express demand for any product of discovery, the person from whom discovery was obtained may file and serve on the investigator identified in the demand, a petition for an order of the court to modify or set aside the demand. The petition may be filed in Superior Court in either Wake County or the county in which the person resides, is found, or transacts business, or, in the case of a petition to modify an express demand for any product of discovery, the petition shall be filed only in the court in which the proceeding in which the discovery was obtained or was last pending. Any petition under this subsection must be filed within 30 days after the date of service of the civil investigative demand or before the return date specified in the demand, whichever date is earlier, or within a longer period as may be prescribed in writing by the investigator identified in the demand. The petition shall specify each ground upon which the petitioner relies in seeking relief and may be based upon any failure to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.

(m) Any transcript of oral testimony, answers to written interrogatories, and documents and objects produced pursuant to this section may be used in connection with any civil action brought under G.S. 1-608.

(n) The Attorney General shall designate an investigator assigned to the North Carolina Department of Justice to serve as a custodian of documents and objects, answers to interrogatories, and transcripts of oral testimony received under this section, and shall designate any additional investigators as the Attorney General determines from time to time to be necessary to serve as deputies or successors to the custodian. An investigator who receives any documents or objects, answers to interrogatories, or transcripts of oral testimony under this section may serve as the custodian or may transmit them to another investigator designated as the custodian. The custodian shall take physical possession of any documents, objects, answers, or transcripts and shall be responsible for the use made of them and for the return of documents and objects.

(o) The custodian may cause the preparation of copies of documents, answers to interrogatories, or transcripts of oral testimony as may be required for official use by any investigator or other officer or employee of the North Carolina Department of Justice. The custodian shall make documents, objects, answers, transcripts, and copies thereof available for examination and use by the Attorney General and any investigator or other officer or employee of the North Carolina Department of Justice in connection with the taking of oral testimony under this section and any investigation or action brought pursuant to G.S. 1-608.

(p) Except as otherwise provided in this section, no documents, objects, answers to interrogatories, or transcripts of oral testimony, or copies thereof, while in the possession of the custodian, shall be available for examination by any individual other than an employee of the North Carolina Department of Justice authorized under this section. The prohibition in the

preceding sentence on the availability of documents, objects, answers, or transcripts shall not apply if consent is given by the person who produced the documents, objects, answers, or transcripts, or, in the case of any product of discovery produced pursuant to an express demand, consent is given by the person from whom the discovery was obtained, or prevent disclosure to any other federal or State agency for use by that agency in furtherance of its statutory responsibilities upon application made by the Attorney General to the Superior Court showing substantial need for the use of the information by any agency in furtherance of its statutory responsibilities.

(q) While in the possession of the custodian and under reasonable terms and conditions as the Attorney General shall prescribe, documents, objects, and answers to interrogatories shall be available for examination by the person who produced the documents, objects, or answers, or by a representative of that person authorized by that person to examine the documents, objects, and answers; and transcripts of oral testimony shall be available for examination by the person who produced the testimony, or by a representative of that person authorized by that person to examine the transcripts.

(r) If any documents or objects have been produced by any person in the course of any investigation pursuant to a civil investigative demand under this section, and any case or proceeding before any court arising out of the investigation, or any proceeding before any agency involving the documents or objects, has been completed, or no case or proceeding in which the documents or objects may be used has been commenced within a reasonable time after completion of the investigation, the custodian shall, upon written request of the person who produced the documents or objects, return to the person any documents or objects that have not passed into the control of any court or agency.

(s) The North Carolina Rules of Civil Procedure shall apply to this section to the extent that the rules are not inconsistent with the provisions of this section.

"**§ 1-615. False claims procedure.**

(a) Statute of Limitations. – A civil action under G.S. 1-608 may not be brought (i) more than six years after the date on which the violation of G.S. 1-607 was committed or (ii) more than three years after the date when facts material to the right of action are known or reasonably should have been known by the official of the State of North Carolina charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

(b) Burden of Proof. – In any action brought under G.S. 1-608, the State or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

(c) Estoppel. – Notwithstanding any other provision of law, a final judgment rendered in favor of the State in a criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action that involves the same transaction as in the criminal proceeding and which is brought under G.S. 1-608.

(d) Venue. – Venue for any action brought pursuant to G.S. 1-608 shall be in either Wake County or in any county in which a claim originated, or in which any statement or record was made, or acts done, or services or property rendered in connection with any act constituting part of the violation of this Article.

"**§ 1-616. Remedies under other laws; severability of provisions; liberality of legislative construction; adoption of legislative history.**

(a) Remedies Under Other Laws. – The provisions of this Article are not exclusive, and the remedies provided for in this Article shall be in addition to any other remedies provided for in any other law or available under common law. No criminal or administrative action need be brought against any provider as a condition for establishing civil liability under this section.

(b) If any provision of this Article or the application of this Article to any person or circumstance is held to be unconstitutional, the remainder of this Article and the application of the provision to other persons or circumstances shall not be affected by that holding.

(c) This Article shall be interpreted and construed so as to be consistent with the federal False Claims Act, 31 U.S.C. § 3729, et. seq., and any subsequent amendments to that act.

"**§ 1-617. Rules.**

The Attorney General may adopt rules necessary to carry out the purposes set forth in this Article."

SECTION 2. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"**§ 108A-63.1. Health care fraud and abuse subpoena duces tecum.**

(a) The Attorney General may issue in writing and cause to be served a subpoena duces tecum upon any corporation or governmental entity requiring the production of any records, books, papers, documents, electronic media, or other objects, which may be relevant to any criminal investigation of any act or activity of a provider involving a violation of G.S. 14-32.1, 14-32.2, 14-90, 14-100, 14-112.2, 108A-60, or 108A-63 that a corporation or governmental entity may possess or have care, custody, or control.

(b) Requiring a custodian of records to give testimony concerning the production and authentication of the records, books, papers, documents, electronic media, or other objects.

(c) A subpoena under this section shall describe the records, books, papers, documents, electronic media, or other objects required to be produced and prescribe a return date within a reasonable period of time within which they can be assembled and made available.

(d) The corporation or governmental entity may be required to produce the records, books, papers, documents, electronic media, or other objects in the county in which the corporation or governmental entity has its principal office or in Wake County.

(e) A custodian of records summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the State.

(f) A corporation or governmental entity may move to quash or modify the subpoena if it is oppressive or unreasonable. The motion must be made before the time specified in the subpoena for production and may be made before a judge of the superior court in the county in which the corporation or governmental entity is required to produce the objects or in which it has its principal office.

(g) In the case of failure by any corporation or governmental entity without adequate excuse to obey a subpoena, the Attorney General may invoke the aid of a judge of the superior court. The court may issue an order requiring the subpoenaed corporation or governmental entity to appear before the Attorney General to produce the records, books, papers, documents, electronic media, or other objects, if so ordered, or to give testimony concerning their production and authentication. Failure to obey the order of the court may be punished as contempt of court.

(h) Notwithstanding any other privacy law to the contrary, any corporation or governmental entity, including officers, agents, and employees, who comply in good faith with the subpoena and produce the materials sought, shall not be liable in any court of this State to any person for the production of the records, books, papers, documents, electronic media, or other objects, or for the nondisclosure of the production to any person.

(i) Health information about an individual that is disclosed under this section may not be used in, or disclosed to any person for use in, any administrative, civil, or criminal action or investigation directed against the individual who is the subject of the information unless the action or investigation arises out of and is directly related to receipt of health care or payment for health care or action involving a fraudulent claim related to health; or if authorized by an appropriate order of a court of competent jurisdiction, granted after application showing good cause therefore.

(1) In assessing good cause under this subsection, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician patient relationship, and to the treatment services.

(2) Upon the granting of an order to disclose, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure."

SECTION 3. G.S. 108A-63 reads as rewritten:

"**§ 108A-63. Medical assistance provider fraud.**

(a) It shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully make or cause to be made any false statement or representation of a material fact:

(1) In any application for payment under this Part, or for use in determining entitlement to such payment; or

(2) With respect to the conditions or operation of a provider or facility in order that such provider or facility may qualify or remain qualified to provide assistance under this Part.

(b) It shall be unlawful for any provider of medical assistance to knowingly and willfully conceal or fail to disclose any fact or event affecting:

(1) His initial or continued entitlement to payment under this Part; or

(2) The amount of payment to which such person is or may be entitled.

(c) ~~Any~~ Except as otherwise provided in subsections (e) and (g) of this section, any person who violates a provision of this section shall be guilty of a Class I felony.

(d) "Provider" shall include any person who provides goods or services under this Part and any other person acting as an employee, representative or agent of such person.

(e) In connection with the delivery of or payment for benefits, items, or services under this Part, it shall be unlawful for any provider of medical assistance under this Part to knowingly and willfully execute, or attempt to execute, a scheme or artifice to:

(1) Defraud the Medical Assistance Program.

(2) Obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, the Medical Assistance Program.

If the value of the benefits, items, or services is one hundred thousand dollars ($100,000) or more, a violation of this subsection is a Class C felony. If the value of the benefits, items, or services is less than one hundred thousand dollars ($100,000), a violation of this subsection is a Class H felony.

(f) It shall be unlawful for any provider to knowingly and willfully obstruct, delay, or mislead or attempt to obstruct, delay, or mislead an investigation of a violation of this section by the Attorney General's Office.

(g) It shall be unlawful for any provider to knowingly and willfully make or cause to be made a false entry in, alter, destroy, or conceal a financial, medical, or other record related to the provision of a benefit, item, or service under this Part with the intent to defraud."

SECTION 4. Section 1 of this act becomes effective January 1, 2010, and applies to acts committed on or after that date, except that a civil action may be based on activity occurring prior to the effective date if the activity would otherwise be covered under G.S. 108A-70.12 and the limitations period set in G.S. 108A-70.13 has not lapsed. Sections 2 and 3 of this act become effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: House Bill 1135 (First Edition)

SHORT TITLE: Qui Tam/Liability for False Claims.

SPONSOR(S): Representatives Ross, Glazier, Martin, and Hall

FISCAL IMPACT

Yes (X) No ( ) No Estimate Available (X)

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
GENERAL FUND					
Correction		**Indeterminate fiscal impact**			
Probation		**Indeterminate fiscal impact**			
Judicial		**Indeterminate fiscal impact**			
Justice					
Receipts	**$439,209**	**$427,285**	**$440,103**	**$453,306**	**$466,905**
Requirements	**$585,612**	**$569,713**	**$586,804**	**$604,408**	**$622,540**
TOTAL EXPENDITURES:	**$146,403**	**$142,428**	**$146,701**	**$151,102**	**$155,635**
ADDITIONAL PRISON BEDS: (cumulative)*		**Indeterminate prison bed impact**			
POSITIONS: (cumulative)	**5**	**5**	**5**	**5**	**5**

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Department of Justice

EFFECTIVE DATE: Section 1 of this act becomes effective January 1, 2010, and applies to acts committed on or after that date, except that a civil action may be based on activity occurring prior to the effective date if the activity would otherwise be covered under G.S. 108A-70.12 and the limitations period set in G.S. 108A-70.13 has not lapsed. Sections 2 and 3 of this act become effective July 1, 2009.

**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:

Adds a new Article 52 to Chapter 1 of the General Statutes:

- Any person who knowingly submits false claims to any state officer or employee or to any contractor who receives state funds or who engages in listed types of similar conduct is to be civilly liable to the state for three times the amount of the damages sustained by the state as a result, plus costs, plus a civil penalty of between $5,500 and $11,000 per violation. The penalties may be reduced by a court if the person voluntarily discloses his or her conduct to authorities and cooperates in any investigation.
- Provides that the Attorney General must investigate false claims and may file civil actions based on such claims, but also allows private persons to file such civil actions as qui tam plaintiffs. Civil actions filed by private persons must be filed under seal and provided to the Attorney General, who may choose to intervene within 120 days. If the Attorney General chooses to intervene, the state bears the primary responsibility for prosecuting the case, subject to certain rights of the qui tam plaintiff, and the qui tam plaintiff is entitled to between 15% and 25% of the proceeds of the action, plus attorneys' fees and costs. If the Attorney General chooses not to intervene, the qui tam plaintiff may prosecute the case, subject to certain rights of the state, and the qui tam plaintiff is entitled to between 25% and 30% of the proceeds of the action, plus attorneys' fees and costs. If the qui tam plaintiff conducts the action and a court later determines that it was frivolous, the court may award attorneys' fees and expenses to the defendant.
- Certain actions are barred, such as actions against a member of the General Assembly or a member of the judiciary acting in his or her official capacity, or actions based on information obtained by a state employee in the course of his or her employment, unless the employee exhausted all internal channels for reporting the information and seeking redress.
- Employers may not fire employees for their participation in qui tam actions, and employees who are fired for that reason are entitled to reinstatement, double back pay, and attorneys' costs and fees.
- The Attorney General is empowered to issue a "civil investigative demand," essentially an administrative subpoena, to any person with information relevant to a possible false claims action. Such a demand may be used before the Attorney General brings or intervenes in a false claims action to compel a person to appear and testify under oath, to answer written questions, or to produce documents or other items. Details the time limits and so forth of such demands, which frequently parallel the provisions of the North Carolina Rules of Civil Procedure, and provides consequences, including contempt, for failure to comply with such demands. Generally, responses to civil investigative demands will be maintained by the Department of Justice and will not be available for public inspection.
- False claims actions must be brought within six years of the violation, or within three years of the state's learning of the violation, whichever is later, but in any event no later than ten years after the violation. Other procedural requirements for such actions are also specified. Effective for acts committed on or after January 1, 2010, except that a civil action may be based on an activity occurring before the effective date if the activity would otherwise be covered under GS 108A-70.12 and the period in GS 108A-70.13 has not lapsed.

- The bill also enacts a new GS 108A-63.1, which allows the Attorney General to issue subpoenas duces tecum to any corporation or governmental entity for any records relevant to a criminal investigation of a health care provider. Effective July 1, 2009.
- Finally, the bill amends GS 108A-63, which covers medical assistance provider fraud, to make it a Class H felony for a medical assistance provider to defraud the Medical Assistance Program. If the value of the fraud exceeds $100,000, the offense is a Class C felony. Effective July 1, 2009.

ASSUMPTIONS AND METHODOLOGY:

General

The North Carolina Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction – Division of Prisons

Section 3 amends G.S. 108A-63, Medical Assistance Provider Fraud, to create 3 new offenses:

G.S. 108A-63(e) makes it a felony for a provider of goods or services under the Medical Assistance Program to knowingly and willfully execute or attempt to execute a scheme or artifice to: (1) defraud the Medical Assistance Program; or (2) obtain by false or fraudulent pretenses, representation, or promises, any money or property owned by, or under the custody or control of, the Medical Assistance Program, when the fraudulent conduct is in connection with the delivery of or payment for health care benefits, items, or services. The offense is a Class C felony if the value of the benefits, items, or services is $100,000 or more, and a Class H felony if the value is less than $100,000.

It is unclear what conduct covered by subsection (e) would be distinct from the existing offenses under subsections G.S. 108A-63(a) and (b). Subsections (a) and (b) currently prohibit a provider from knowingly and willfully (a) making a false statement or presentation of material fact in an application for payment from the Medical Assistance Program or with respect to the provider's qualification to provide medial assistance under the program, or (b) concealing or failing to disclose a fact or event affecting the provider's entitlement to payment from the Medical Assistance Program or the amount of such payment to which the provider is entitled. Both offenses are Class I felonies and address acts that would involve the actual or attempted "defraud[ing of] the Medical Assistance Program" as prohibited by (e)(1), or the actual or attempted obtaining of money or property from the Medical Assistance Program by false pretenses as prohibited by (e)(2). It is unclear if the execution of a "scheme or artifice" in subsection (e) requires a pattern of conduct and, if so, what quantum or duration of acts proscribed by subsections (a) and (b) would qualify for punishment under subsection (e).

Currently, violations of the proposed subsection (e) could qualify for punishment under G.S. 14-100, obtaining property by false pretenses. In FY 2007-08, there were seven Class C felony convictions for obtaining property that was valued at $100,000 or more by false pretenses. The average minimum sentence imposed for these convictions was 72 months. In FY 2007-08, there were 1,478 Class H felony convictions for obtaining property that was valued at less than $100,000 by false pretenses. The average minimum sentence imposed for these convictions was nine months. In addition, there were 105 convictions for attempted obtaining property by false pretenses. *It is unknown how many of these Class C felony convictions (n=7) and Class H felony convictions (n=1,478) convictions or attempt convictions (n=105) would meet the elements of the proposed offense.*

Under Structured Sentencing, with the exception of extraordinary mitigation, all Class C felony offenders are required to receive an active sentence. In FY 2007-08, the average estimated time served for an offender convicted of a Class C felony offense was 95 months. If, for example, there was one convictions for this proposed offense per year, this proposed change would result in the need for one additional the first year and two additional prison beds the second year. In addition, since a period of Post-Release Supervision follows release from prison for offenders convicted of Class B1-E felonies, there will be some impact on Post-Release Supervision and prison beds due to revocations.

In FY 2007-08, 36% of Class H convictions resulted in active sentences, with an average estimated time served of 11 months. If, for example, there were three Class H convictions for this proposed 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.

G.S. 108A-63(f) makes it a Class I felony for any provider to knowingly and willfully obstruct, delay, or mislead or attempt to obstruct, delay, or mislead an investigation of a violation of this section by the Attorney General's Office.

Currently, violations of the proposed subsection could qualify for punishment as a Class 1 misdemeanor under Common Law Obstruction of Justice or as a Class 2 misdemeanor under G.S. 14-223, Resisting, delaying, or obstructing a public officer in discharging or attempting to discharge an official duty. In FY 2007-08, there were 108 convictions for obstruction of justice and no convictions for violations of G.S. 14-223. *It is unknown how many of the 108 Class 1 misdemeanor convictions would meet the elements of the proposed offense.*

In FY 2007-08, 16% of Class I felony convictions resulted in active sentences, with an average estimated time served of seven months. If, for example, there were 12 Class I felony convictions for the proposed offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year rand four additional prison beds the second year.

G.S. 108A-63(g) makes it unlawful for a provider to knowingly and willfully make or cause to be made a false entry in – or alter, destroy or conceal – a financial, medical or other record related to the provision of a benefit, item, or service under G.S. 108A, Article 2, Part 6 (Medical Assistance Program) with the intent to defraud. The bill leaves this offense unclassified, expressly excluding subsection (g) from the general Class I felony provision in G.S. 108A-63(c) without providing an alternative classification. Moreover, it is unclear what conduct addressed in subsection (g) would not be covered by the offenses in G.S. 108A-63(a) (false statement or representation of material fact in an application for payment) or (b) (concealing or failing to disclose a fact or event affecting the provider's entitlement to payment or the amount thereof).

Since the proposed subsection leaves this offense unclassified, impact cannot be estimated.

It is important to note that based on the most recent population projections and estimated bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.* Therefore, any additional prison beds that may be required as a result of the implementation of this proposed legislation will place a further burden on the prison bed shortage.

Department of Correction – Division of Community Corrections

For felony offense classes E through I and all misdemeanor classes, offenders may be given non-active (intermediate or community) sentences exclusively, or in conjunction with imprisonment (split-sentence). Intermediate sanctions include intensive supervision probation, special probation, house arrest with electronic monitoring, day reporting center, residential treatment facility, and drug treatment court. Community sanctions include supervised probation, unsupervised probation, community service, fines, and restitution. Offenders given intermediate or community sanctions requiring supervision are supervised by the Division of Community Corrections (DCC); DCC also oversees community service.[1]

General supervision of intermediate and community offenders by a probation officer costs DCC $2.37 per offender, per day; no cost is assumed for those receiving unsupervised probation, or who are ordered only to pay fines, fees, or restitution. The daily cost per offender on intermediate sanction ranges from $8.43 to $16.71, depending upon sanction type. Thus, assuming intensive supervision probation – the most frequently used intermediate sanction – the estimated daily cost per intermediate offender is $16.71 for the initial six-month intensive duration, and $2.09 for general supervision each day thereafter. Total costs to DCC are based on average supervision length and the percentage of offenders (per offense class) sentenced to intermediate sanctions and supervised probations.

Because there is no data available upon which to base an estimate of the number of convictions that will be sentenced to intermediate or community punishment, *potential costs to DCC cannot be determined.*

Judicial Branch

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Section 3, Enacting new medical assistance provider fraud offenses:
Current G.S. 108A-63 makes it a Class I felony for a provider of medical assistance to knowingly and willfully make a false statement or representation in an application for payment from the Medical Assistance Program (MAP), or with respect to whether the provider's operation meets the qualifications to be a provider under that program. It is also a Class I felony to conceal or fail to disclose a fact or event affecting the provider's entitlement to payment or the amount. In 2008, there were 36 defendants charged with a Class I felony under this statute.

The bill would add three new subsections to this statute, establishing new felony offenses:

New G.S. 108A-63(e) would make it a felony for a provider of medical assistance to knowingly and willfully execute or attempt to execute a scheme or artifice to defraud the MAP, or obtain MAP money or property by false or fraudulent pretenses, in connection with the delivery of or payment for health benefits, items, or services. The new offenses are Class C felonies if the value of the benefits, items, or services is $100,000 or more, and otherwise a Class H felony.

It appears that at least some conduct prescribed by new subsection (e) could be punishable under existing G.S. 14-100, obtaining property by false pretenses, which is also a Class C felony offense if the value of the property is $100,00 or more, otherwise a Class H felony offense. AOC data for 2008 show 8,891

[1] DCC incurs costs of $0.69 per day for each offender sentenced to the Community Service Work Program; however, the total cost for this program cannot be determined.

defendants charged with a Class H felony under G.S. 14-100 and 20 charged with a Class C felony. AOC data also show 1,001 defendants charged under this statute with attempt and 235 with aiding and abetting or conspiracy. *The data offer no way to determine whether any of these charges related to conduct that would constitute the medical assistance fraud defined in subsection (e) of this bill.*

Some, but not all of the conduct currently charged as Class I felonies under current G.S. 108A-63 could be charged as Class H or Class C felonies under this bill. It appears that the new offenses are narrower in scope than the current statute. For example, there may be circumstances in which the current statute could be violated by a false representation alone, which the new offense may require a concrete connection to actual MAP money or property of a certain, determinable value. The new offense may also require some ongoing pattern of conduct ("a scheme or artifice"), while an isolated fraud would violate the existing offense. AOC cannot determine which, if any, of the 36 defendants charged under G.S. 108A-63 in 2008 could have been charged with Class H or Class C felonies under this bill.

For every charge elevated from a Class I to a Class H felony, the cost would range from $111 to $962 depending on the mode of disposition of the case. The increased cost for indigent defense would average $60 per indigent defendant. For every charge elevated from a Class I to a Class C felony, the cost would range from $1,817 to $10,603 depending on the mode of disposition of the case. The increased cost for indigent defense would average $660 per indigent defendant.

New subsections G.S. 108A-63(f) and (g) would enact additional felony offenses, making it unlawful to: (f) knowingly and willfully obstruct, delay, or mislead an investigation of a violation of this section by the Attorney General, or (g) knowingly and willfully make or cause to be made a false entry in, alter, destroy, or conceal a financial, medical, or other record related to the provision of a benefit, item, or service under this Part with the intent to defraud. The offense under subsection (f) would be a Class I felony, as specified in G.S. 108A-63(c) as amended. The bill does not specify a class for the offense in new subsection (g) (see Technical Considerations). Conduct covered by these new offenses may in some instances be punishable under existing law such as: common law obstruction of justice, a Class 1 misdemeanor; false report to a law enforcement agency under G.S. 14-255, a Class 2 misdemeanor; or current G.S. 108A-63(b), a Class I felony.

AOC has no data from which to predict the number of existing cases that would be affected or the number of new changes that might be filed under this section of the bill. To the extent that bill results in enhancements of existing charges or new charges, there would be an increase in court workload, primarily for the Superior Courts, affecting judges, clerks, prosecutors, court reporters and indigent defense. The cost for a single Class C felony trial averages $17,000, and a single Class H felony trial averages $7,500. Indigent defense costs (overall averages, plea and trial) are $1,245 for a Class C felony and $540 for a Class H felony.

Department of Justice – Office of the Attorney General, Medicaid Investigations Unit

The Department of Justice (DOJ) provided Fiscal Research with an estimate of the anticipated costs to the agency, should this bill become law. Because the bill has a broad application, DOJ will monitor the impact of the provisions after implementation and may seek funding for additional staff, depending on the amount of additional volume and workload that may result from this bill.

DOJ estimates that there will be a need for a five person team composed of one Attorney III, two Attorney IIs, one paralegal, and one auditor to handle the increased workload created by this bill. DOJ submitted the following justification for these positions:

1. Mandated Duties

The proposed North Carolina qui tam act would mandate new duties that only DOJ can perform, including the following:

a. Accept service for filed qui tam actions;
b. Review the action for merit to determine whether or not to intervene;
c. Maintain information under seal;
d. Move the court for extensions of the seal as necessary;
e. Intervene or notify the court of its declination;
f. Upon intervention, have primary responsibility for prosecuting the action including settling the action and defending the settlement in court if the relator objects to the settlement;
g. Upon declination, track the progress of the case to reassess whether the State should intervene;
h. Determine the extent of participation of the relator; and
i. Negotiate or litigate the percentage of the proceeds to which the relator is entitled as an award.

These additional duties cannot be carried out effectively and the qui tam act will not be as effective in recovering funds for the State without funding for additional staff.

2. Increased Workload

States that have enacted qui tam provisions have seen the filing of between 50 and 100 qui tam actions soon after the bill's effective date. DOJ anticipates that at least as many will be filed in North Carolina. These filings will require a sufficient number of staff to be able to review the filings for merit in a timely manner in order to make the required determination of where the State should intervene. Staff will need to review voluminous evidence and investigate and pursue cases in which the State intervenes.

3. Increased Likelihood of Intervention and Recoveries

A five person civil team composed of three attorneys, one paralegal, and one auditor could effectively pursue qui tam cases and increase recoveries. The Medicaid Investigations Unit staff is 75% federally funded and would only require a 25% State match. This 75% federal grant is available for civil positions. The costs for these five positions and the portion paid by the state are shown in the table below. The other annual expenses are overhead items such as office supplies and travel costs. These costs are shown in the fiscal impact table on page one of this fiscal note and have been calculated to reflect a 3% annual inflation rate.

Annual Cost of the Medicaid Investigations Unit			
Position Classification	**FTE**	**Annual Salary (total)**	**State's Portion (25% of total)**
Attorney II	2	$196,180	$49,045
Attorney III	1	$102,772	$25,693
Paralegal II	1	$47,791	$11,948
Internal Auditor II	1	$67,816	$16,954
Total:	**5**	**$414,560**	**$103,640**
Other annual expenses:			$38,788
Total annual State appropriation:			**$142,428**

The experience of other states that have enacted qui tam provisions shows that states that have created positions to handle qui tam cases have shown a significant return on investment, while a state that did not create accompanying positions was not able to do more than minimal tracking, was not able to take any meaningful independent action, and had recoveries that were lower than those states with civil staff.

Having a team that is dedicated to and expert in the area of qui tam and health care fraud law will increase the likelihood that they will recognize meritorious qui tam cases and have sufficient resources to intervene. Recoveries in federal qui tam cases are substantially higher in cases in which the government intervenes than in cases in which the government does not intervene. It should be expected in stage qui tam cases that recoveries in cases in which the state intervenes will be substantially higher than in cases in which the State does not intervene. Therefore, providing adequate staffing should lead to more cases in which the State can intervene, which should in turn lead to more dollars recovered.

An MIU civil team will be able to participate sooner and more effectively in national investigations being pursued by the National Association of Medicaid Fraud Control Units and the United States Department of Justice and be in a more effective position in negotiating settlements with defendants.

4. Current Staffing Levels

There are Medicaid Fraud Control Units ("MFCU") in 49 states and the District of Columbia that range in size from the largest, which is New York with a staff of 312 investigating a Medicaid program with a budget of over $46.5 billion, to the smallest, which is Wyoming with a staff of four investigating a Medicaid program with a budget of approximately $456,000. In 2008, North Carolina ranked as the ninth largest state in the amount of its Medicaid Program expenditures at $11.7 billion (in 2009 it grew to $11.7 billion). North Carolina was ranked forty-third in the size of its MFCU staffing per Medicaid dollar expenditures. MIU staffing has not kept pace with the significant increase in Medicaid expenditures, especially over the last four years. In 1988 there was one MUI staff person (which is including investigators, attorneys, and program assistants) for each $54.6 million in N.C. Medicaid expenditures. Today there is one N.C. MFCU staff person for each $345 million in N.C. Medicaid expenditures. Additional positions will allow the MIU to investigate and pursue additional cases and assist in preventing, deterring, and recovering the loss of State funds to Medicaid fraud.

5. Cost-Benefits

The Return on Investment Schedule prepared in 2009 showed that for each $1.00 in State matching funds provided to the MIU for employee salary and operating costs, the State realizes $24.00 in fraud recoveries, school fund payments and related benefits. Using this calculation, *if North Carolina spends $142,428 per year in matching funds the State can expect to realize $3,418,272 in benefits.*

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission; Department of Justice

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Danielle Seale, Jean Sandaire

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: May 22, 2009



Signed Copy Located in the NCGA Principal Clerk's Offices

VISITOR REGISTRATION SHEET

STATE GOV./ STATE PERSONNEL — JUNE 2, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Charlie Hobgood	NC Dept. of Justice
Eddie Kirby	NC DOJ
Chris McLeod	Raleigh
John McMillan	MFHS
Jonathan Diesenhaus	H+H
JOHN GOODMAN	NC CHAMBER
Todd Barlow	NCAJ
David Bray	MWL
JOE LANIER	520 WICICOR
SPEROS FLEGGAS	DOA
Amy McConkey	Smith Anderson

VISITOR REGISTRATION SHEET

STATE GOV./ STATE PERSONNEL — JUNE 2, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Randy B. Lee	State Surplus Property Agency 6501 Chapel Hill Rd Raleigh
Micky Sears	State Surplus Property Agency 6501 Chapel Hill Road, Raleigh
Penny Griffin	School of Gov.
Dave Hinton	Purple Elephant Computer Factory, 6808 Davis Circle, Trl, NC 27614
Karen Gillespie	Bristol Myers Squibb
Gary Sprunger	GSK
Michelle Frazier	MFAS

Minutes
House Committee on State Government/State Personnel
Tuesday, June 16, 2009

The House Committee on State Government/State Personnel met on Tuesday, June 16, 2009, at 2:00 PM in Room 424 of the Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Representatives Harrell and Mobley, Vice Chairs; and Representatives Burr, Killian, Mackey, Randleman, Sager, Sutton, Wiley, Womble and Yongue. Also present were staff attorneys Theresa Matula, Karen Cochrane-Brown, and Shirley Iorio; Sergeant-at-arms staff Rod Finger, Frank Prevo and James Worth; and Committee Clerk Nancy Brantley. The Chairman also recognized Pages Morgan Stegal from Union County, sponsored by Representative Gibson, and Ashleigh Curry from Gaston County, sponsored by Representative Pearl Burris-Floyd.

Senator Atwater was recognized to explain his bill, **SB 658, MODIFY SUPPLEMENTAL RETIREMENT BOARD.** Following discussion, Representative Yongue made a motion that the bill receive a favorable report with a recommendation that it be re-referred to the Committee on Pensions and Retirement. The motion carried.

Chairman Wilkins called on Rep. Hall to explain his bill, **HB 1633, UPGRADE SECURITY SERVICES-GOVERNMENT COMPLEX.** Upon motion of Representative Wiley, the proposed committee substitute was adopted for discussion. Following a lengthy discussion, the bill was displaced until a future meeting.

Representative Insko was recognized to explain Senator Dorsett's bill, **SB 208, PEOPLE FIRST**. Representative Young made a motion that the proposed committee substitute be adopted for discussion. The motion carried. Following discussion, Representative Mackey moved for a favorable report as to the House committee substitute, unfavorable to the Senate committee substitute, with a recommendation that the House PCS be re-referred to the Committee on Health. The motion was adopted.

The meeting was adjourned at 2:35 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

6-16-09

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

SB 658 A BILL TO BE ENTITLED AN ACT TO MODIFY THE MEMBERSHIP OF THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on PENSIONS AND RETIREMENT.

(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 _____.

6-16-09

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
SB 208 A BILL TO BE ENTITLED AN ACT PERTAINING TO STATUTORY AND ADMINISTRATIVE RULE REFERENCES TO PEOPLE WITH DISABILITIES.

☒ With a favorable report as to the House committee substitute bill, unfavorable as to Senate Committee Substitute Bill and recommendation that the House committee substitute bill be re-referred to the Committee on HEALTH.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, June 16, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

HB 1593	**Local Tax Lien/Priority Over State Tax Lien.** **Representative Lewis**
HB 1633	**Upgrade Security Services-Government Complex.** **Representative Hall**
SB 208	**People First.** **Senator Dorsett**
SB 658	**Modify Supplemental Retirement Board.** **Senator Atwater**
SB 712	**State Surplus Property/New Recipient.** **Senator Hunt**

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 658

Pensions & Retirement & Aging Committee Substitute Adopted 5/13/09

Short Title: Modify Supplemental Retirement Board. (Public)

Sponsors:

Referred to:

March 19, 2009

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE MEMBERSHIP OF THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-96 reads as rewritten:

"**§ 135-96. Supplemental Retirement Board of Trustees.**

(a) The Supplemental Retirement Board of Trustees is established to administer the Supplemental Retirement Income Plan established under the provisions of this Article and the North Carolina Public Employee Deferred Compensation Plan established under G.S. 143B-426.24.

(b) The Board consists of nine voting members, as follows:

(1) Six persons appointed by the Governor who have experience in finance and investments, one of whom shall be a State ~~employee;~~ employee, and one of whom shall be a retired State or local governmental employee;

(2) One person appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives;

(3) One person appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate; and

(4) The State Treasurer, ex officio, who shall be the Chair.

(c) The initial appointments by the General Assembly and two of the Governor's initial appointments shall be for one-year terms. The remainder of the initial appointments shall be for two-year terms. At the expiration of these initial terms, appointments shall be for two years and shall be made by the appointing authorities designated in subsection (b) of this section. A member shall continue to serve until the member's successor is duly appointed, but a holdover under this provision does not affect the expiration date of the succeeding term. No member of the Board may serve more than three consecutive two-year terms.

(d) Other than ex officio members, members appointed by the Governor shall serve at the Governor's pleasure. An ex officio member may designate in writing, filed with the Board, any employee of the member's department to act at any meeting of the Board from which the member is absent, to the same extent that the member could act if present in person at such meeting."

SECTION 2. This act becomes effective July 1, 2009.

SENATE BILL 658:
Modify Supplemental Retirement Board

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Pensions and Retirement	**Date:**	June 16, 2009
Introduced by:	Sen. Atwater	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	Second Edition		

SUMMARY: Senate Bill 658 would modify the membership of the Supplemental Retirement Board of Trustees to direct that one of the Governor's appointees be a retired governmental employee.

CURRENT LAW:

In 2008, the General Assembly amended the law to consolidate the Board of Trustees for the North Carolina Public Employee Deferred Compensation Plan and the Board of Trustees for the Supplemental Retirement Income Plan into the Supplemental Retirement Board of Trustees. The act calls for the consolidated Board to administer both Plans.

The Supplemental Retirement Board of Trustees consists of nine voting members, including six members appointed by the Governor who have experience in finance and investments, one of whom ıst be a State employee, one member appointed by the General Assembly on the recommendation of : Speaker of the House, one member appointed by the General Assembly on the recommendation of the President Pro Tempore of the Senate, and the State Treasurer.

The act was made effective July 1, 2009. Between July 1, 2008 and June 30, 2009, a transitional Board of Trustees was created to administer the Plans.

BILL ANALYSIS:

Senate Bill 658 amends the law governing the Supplemental Retirement Board of Trustees to provide that one of the six members appointed by the Governor who has experience in finance and investments shall be a retired state or local governmental employee.

EFFECTIVE DATE: This act becomes effective July 1, 2009.

S658-SMRO-123(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 208
Health Care Committee Substitute Adopted 4/2/09
Third Edition Engrossed 4/9/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S208-PCS75264-LN-35

Short Title: People First. (Public)

Sponsors:

Referred to:

February 18, 2009

A BILL TO BE ENTITLED

AN ACT PERTAINING TO STATUTORY AND ADMINISTRATIVE RULE REFERENCES TO PEOPLE WITH DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly to refer to a person with a disability as a person first when directing the drafting of statutes and resolutions. The Legislative Services Office shall incorporate into its drafting training of legislative drafters the preference to avoid language that implies a person as a whole is disabled, equates a person with his or her condition, or is regarded as derogatory or demeaning. The Arc of North Carolina shall provide a list of nationally recognized descriptors to the Legislative Services Office to be used in this training.

SECTION 2. The General Statutes Commission shall recommend to the 2010 reconvened session of the 2009 General Assembly and to the 2011 Regular Session of the General Assembly any statutory changes and drafting policies needed to make the General Statutes and administrative rules refer to a person with a disability as a person first. The goal of such revisions shall be to avoid language that implies a person as a whole is disabled, equates a person with his or her condition, or is regarded as derogatory or demeaning. In making recommendations, the General Statutes Commission shall distinguish those instances where a word or phrase is required by federal law or regulation, is describing a medical diagnosis, or is referring to nonliving entities such as facilities, organizations, programs, services, or zone designations.

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

SENATE BILL 208: People First

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Health	**Date:**	June 9, 2009
Introduced by:	Sen. Dorsett	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	Third Edition		Legislative Analyst

SUMMARY: ***Senate Bill 208 would direct the Legislative Services Office to incorporate into the training for legislative drafters a preference to avoid certain language when referring to people with disabilities.***

The General Statutes Commission would be directed to recommend to the General Assembly any statutory changes and drafting policies needed to make the North Carolina General Statutes and administrative rules refer to a person with a disability as a person first.

Senate Bill 208 has a serial referral to Health.

BILL ANALYSIS: Senate Bill 208 would require the Legislative Services Office to incorporate into its training for legislative drafters a preference to avoid language that:

- implies a person as a whole is disabled;
- equates a person with his or her condition; or
- is regarded as derogatory or demeaning.

The North Carolina Council on Developmental Disabilities would be required to provide to the Legislative Services Office a list of nationally recognized descriptors to be used in this training.

Senate Bill 208 also would require the General Statutes Commission to do the following:

- recommend to the 2010 and to the 2011 General Assembly any statutory changes and drafting policies needed to make the General Statutes and administrative rules refer to a person with a disability as a person first; and
- distinguish those instances where a word or phrase is required by federal law or regulation, is describing a medical diagnosis, or is referring to nonliving entities such as facilities or programs.

EFFECTIVE DATE: The act would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 3

SENATE BILL 208
Health Care Committee Substitute Adopted 4/2/09
Third Edition Engrossed 4/9/09

Short Title: People First. (Public)

Sponsors:

Referred to:

February 18, 2009

A BILL TO BE ENTITLED

AN ACT PERTAINING TO STATUTORY AND ADMINISTRATIVE RULE REFERENCES TO PEOPLE WITH DISABILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. It is the intent of the General Assembly to refer to a person with a disability as a person first when directing the drafting of statutes and resolutions. The Legislative Services Office shall incorporate into its drafting training of legislative drafters the preference to avoid language that implies a person as a whole is disabled, equates a person with his or her condition, or is regarded as derogatory or demeaning. The North Carolina Council on Developmental Disabilities shall provide a list of nationally recognized descriptors to the Legislative Services Office to be used in this training.

SECTION 2. The General Statutes Commission shall recommend to the 2010 reconvened session of the 2009 General Assembly and to the 2011 Regular Session of the General Assembly any statutory changes and drafting policies needed to make the General Statutes and administrative rules refer to a person with a disability as a person first. The goal of such revisions shall be to avoid language that implies a person as a whole is disabled, equates a person with his or her condition, or is regarded as derogatory or demeaning. In making recommendation, the General Statutes Commission shall distinguish those instances where a word or phrase is required by federal law or regulation, is describing a medical diagnosis, or is referring to nonliving entities such as facilities, organizations, programs, services, or zone designations.

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

VISITOR REGISTRATION SHEET

State Gov't / Personnel — 6-16-09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Penny Burgin	School of Gov
Karen Stallings	ASANC of NC
Kenneth Stallings	SABE
[illegible]	[illegible]
Michael Houser	NCDOR
Charles W Holmes	NCDOR
Ed Rogers	NCRGEA
Tony Solari	DST
A. Pully	DST
Allan Beckmann	NCDST
Christopher Jones	NCDST

VISITOR REGISTRATION SHEET

State Govt / Personnel — 6-16-09

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jennifer Mahan	MHANC
Annaliese Dolph	DRNC
Paul Porter	Gen Assembly - Research
David Vanderweide	NCDST

Minutes
House Committee on State Government/State Personnel
Tuesday, June 23, 2009

The House Committee on State Government/State Personnel met on Tuesday, June 23, 2009, at 2:00 PM in Room 424 of the Legislative Office Building.

Chairman Winkie Wilkins called the meeting to order and welcomed Representative Rosa Gill, who had just recently been named to the House of Representatives and to this committee. In addition to the Chairman and Representative Gill, the following members were present: Representatives Harrell, Jackson and Mobley, Vice Chairs; and Representatives Justus, Killian, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Theresa Matula, Karen Cochrane-Brown and Shirley Iorio; Sergeant-at-Arms staff David Shearon, Toussaint Avent, and Jerald Perry; and committee clerk Nancy Brantley.

Chairman Wilkins also recognized Pages Alyssa Jackson of Wake County, sponsored by Representative Jackson; Luke Hancox of Cumberland County, sponsored by Representative Glazier; Hillary David of Wake County, sponsored by Representative Ross; and Kendall Hamm from Catawba County, sponsored by Representative Hilton.

Chairman Wilkins announced that, at the sponsors' requests, three bills on today's Agenda were being pulled:
HB 1593, sponsored by Representative Lewis
SB 712, sponsored by Senator Hunt
SB 986, sponsored by Senator. McKissick.

Senator Clodfelter was requested to explain his bill: **SB 514, MAGISTRATES PROVIDE APPOINTMENT OF COUNSEL**. Following discussion, Representative Mobley moved for a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary III. The motion carried.

Representative Womble was recognized to explain Representative Hall's **HB 1633, UPGRADE SECURITY SERVICES-GOVERNMENT COMPLEX**, which had appeared on the Committee's June 16 calendar and displaced until this week. By motion of Representative Gill, the proposed committee substitute (PCS) was adopted for discussion. Following a lengthy discussion where many opinions on the bill were voiced, the Chairman announced that the bill would be displaced for further study.

Representative Cole was recognized to explain Senator Jenkins' bill, **SB 828, BIDDING PROCESS CHANGES/MAINTENANCE AND OP.** Representative Jackson offered an amendment to the bill, which was adopted. Following discussion, Representative Sutton moved for a favorable report as to the amended bill (Committee substitute bill #2), unfavorable as to House committee substitute bill #1. The motion carried.

Representative Brubaker and Representative Spear were called on to explain **HB 780, BUILDING CODE/EXEMPT EQUESTRIAN ARENAS**, which had initially been introduced by Representative Brubaker and subsequently "piggy-backed" by Representative Spear's addition to the bill. Representative Womble moved with a recommendation that the House concur. The motion carried.

Senator Davis was recognized to explain his bill, **SB 992, AUTHORIZE MAYORS TO SOLEMNIZE MARRIAGE**. Following a lengthy discussion of this bill, the Chairman announced that, due to time constraints, this bill would be displaced until another meeting.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

6-23

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

Senate

☒ Committee Substitute for

SB 514 A BILL TO BE ENTITLED AN ACT TO PROVIDE CERTAIN MAGISTRATES WITH THE AUTHORITY TO PROVIDE FOR THE APPOINTMENT OF COUNSEL WHEN AUTHORIZED BY THE CHIEF DISTRICT JUDGE.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY III.

(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 _____.

6-23-09

P. Cole

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒House Committee Substitute #1 for

SB 828 A BILL TO BE ENTITLED AN ACT TO INCREASE THE MAXIMUM AMOUNT AT WHICH PROJECTS MAY UNDERGO AN INFORMAL BIDDING PROCESS AND CLARIFY THE APPLICATION OF THIS PROCESS, TO CONTINUE THE DEPARTMENT OF TRANSPORTATION'S PROGRAM FOR PARTICIPATION OF DISADVANTAGED MINORITY-OWNED AND WOMEN-OWNED BUSINESSES, AND TO AMEND VARIOUS STATUTES IN CHAPTER 136 OF THE GENERAL STATUTES TO CONFORM WITH THE DEPARTMENT'S FOCUS ON ALL MODES OF TRANSPORTATION INFRASTRUCTURE.

☒ With a favorable report as to House committee substitute bill #2, 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/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.

6-23-09

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 780 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE NORTH CAROLINA BUILDING CODE EXEMPTION FOR FARM BUILDINGS TO INCLUDE EQUINE ARENAS USED FOR LESSONS OFFERED TO THE GENERAL PUBLIC, AND OTHER EQUINE ACTIVITIES, BUT NOT FOR SPECTATOR EVENTS, AND TO PROVIDE THAT IN THE CASE OF A MANDATORY EVACUATION A TENANT SUBJECT TO A VACATION RENTAL AGREEMENT IS ENTITLED TO A REFUND OF THE PRORATED RENT, TAXES, AND OTHER PAYMENTS MADE BY THE TENANT FOR THE OCCUPATION OF THE VACATION RENTAL UNIT.

☒ With recommendation that the House concur.

(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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, June 23, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

Pulled —	HB 1593	Local Tax Lien/Priority Over State Tax Lien. Representative Lewis
Displaced one wk —	HB 1633	Upgrade Security Services-Government Complex. Representative Hall
✓	SB 514	Magistrates Provide Appointment of Counsel. Senator Clodfelter – Tilles on floor
Pulled —	SB 712	State Surplus Property/New Recipient. Senator Hunt
✓	SB 828	Bidding Process Changes/Maintenance and Op. Senator Jenkins
Pulled —	SB 986	Clarify Local Special Separation Allowance. Senator McKissick
Displaced one week or two —	SB 992	Authorize Mayors to Solemnize Marriage. Senator Davis
✓	HB 780	Building Code/Exempt Equestrian Arenas. Representative Brubaker

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 514
Judiciary I Committee Substitute Adopted 5/5/09

Short Title: Magistrates Provide Appointment of Counsel. (Public)

Sponsors:

Referred to:

March 11, 2009

A BILL TO BE ENTITLED

AN ACT TO PROVIDE CERTAIN MAGISTRATES WITH THE AUTHORITY TO PROVIDE FOR THE APPOINTMENT OF COUNSEL WHEN AUTHORIZED BY THE CHIEF DISTRICT JUDGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-292 reads as rewritten:

"**§ 7A-292. Additional powers of magistrates.**

In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil and criminal actions, each magistrate has the following additional powers:

(1) To administer ~~oaths;~~oaths.

(2) To punish for direct criminal contempt subject to the limitations contained in Chapter 5A of the General Statutes of North ~~Carolina;~~Carolina.

(3) When authorized by the chief district judge, to take depositions and examinations before ~~trial;~~trial.

(4) To issue subpoenas and capiases valid throughout the ~~county;~~county.

(5) To take affidavits for the verification of ~~pleadings;~~pleadings.

(6) To issue writs of habeas corpus ad testificandum, as provided in ~~G.S. 17-41;~~G.S. 17-41.

(7) To assign a year's allowance to the surviving spouse and a child's allowance to the children as provided in Chapter 30, Article 4, of the General ~~Statutes;~~Statutes.

(8) To take acknowledgments of instruments, as provided in ~~G.S. 47-1;~~G.S. 47-1.

(9) To perform the marriage ceremony, as provided in ~~G.S. 51-1;~~G.S. 51-1.

(10) To take acknowledgment of a written contract or separation agreement between husband and ~~wife; and~~wife.

(11) Repealed by Session Laws 1973, c. 503, s. 9.

(12) To assess contribution for damages or for work done on a dam, canal, or ditch, as provided in G.S. 156-15.

(13) Repealed by Session Laws 1973, c. 503, s. 9.

(14) To accept the filing of complaints and to issue summons pursuant to Article 4 of Chapter 42A of the General Statutes in expedited eviction proceedings when the office of the clerk of superior court is closed.

(15) When authorized by the chief district judge, as permitted in G.S. 7A-146(11), to provide for appointment of counsel pursuant to Article 36 of this Chapter."

SECTION 2. G.S. 7A-146 reads as rewritten:

"**§ 7A-146. Administrative authority and duties of chief district judge.**

The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his district. These powers and duties include, but are not limited to, the following:

(1) Arranging schedules and assigning district judges for sessions of district ~~courts;~~courts.

(2) Arranging or supervising the calendaring of noncriminal matters for trial or ~~hearing;~~hearing.

(3) Supervising the clerk of superior court in the discharge of the clerical functions of the district ~~court;~~court.

(4) Assigning matters to magistrates, and consistent with the salaries set by the Administrative Officer of the Courts, prescribing times and places at which magistrates shall be available for the performance of their duties; however, the chief district judge may in writing delegate his authority to prescribe times and places at which magistrates in a particular county shall be available for the performance of their duties to another district court judge or the clerk of the superior court, and the person to whom such authority is delegated shall make monthly reports to the chief district judge of the times and places actually served by each ~~magistrate; and~~magistrate.

(5) Making arrangements with proper authorities for the drawing of civil court jury panels and determining which sessions of district court shall be jury ~~sessions;~~sessions.

(6) Arranging for the reporting of civil cases by court reporters or other authorized ~~means;~~means.

(7) Arranging sessions, to the extent practicable for the trial of specialized cases, including traffic, domestic relations, and other types of cases, and assigning district judges to preside over these sessions so as to permit maximum practicable specialization by individual ~~judges;~~judges.

(8) Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 118(b), effective July 15, 1992.

(9) Assigning magistrates during an emergency to temporary duty outside the county of their residence but within that district; and, upon the request of a chief district judge of an adjoining district and upon the approval of the Administrative Officer of the Courts, to temporary duty in the district of the requesting chief district ~~judge; and~~judge.

(10) Designating another district judge of his district as acting chief district judge, to act during the absence or disability of the chief district judge.

(11) Designating certain magistrates who may appoint counsel pursuant to Article 36 of this Chapter. This authority may only be designated to magistrates who are duly licensed attorneys and cannot give any magistrate (i) authority to appoint counsel for first degree murder offenses or (ii) authority to accept a waiver of counsel."

SECTION 2. This act becomes effective July 1, 2009.

SENATE BILL 514:
Magistrates Provide Appointment of Counsel

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary III	**Date:**	June 23, 2009
Introduced by:	Sen. Clodfelter	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***Senate Bill 514 would allow certain magistrates to provide for the appointment of counsel when authorized by the chief district judge.***

Senate Bill 514 has a serial referral to House JIII.

CURRENT LAW: G.S. 7A-146 enumerates administrative authority and duties of a chief district judge. The chief district judge, subject to the general supervision of the Chief Justice of the Supreme Court, has administrative supervision and authority over the operation of the district courts and magistrates in his or her district.

G.S. 7A-292 enumerates additional powers of magistrates.

BILL ANALYSIS:

Section 1 would amend G.S. 7A-292 to allow magistrates authorized by the chief district judge to provide for the appointment of counsel to an indigent person.

Section 2 would amend G.S. 7A-146 to allow chief district judges to designate to magistrates who are duly licensed attorneys the authority to provide for the appointment of counsel to indigent people. No magistrate can be given the authority to appoint counsel for first degree murder offenses or to accept a waiver of counsel.

EFFECTIVE DATE: This act would become effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 828
Commerce Committee Substitute Adopted 5/11/09
Third Edition Engrossed 5/12/09
House Committee Substitute Favorable 6/4/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S828-PCS15307-RO-63

Short Title: Bidding Process Changes/Maintenance and Op. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM AMOUNT AT WHICH PROJECTS MAY UNDERGO AN INFORMAL BIDDING PROCESS AND CLARIFY THE APPLICATION OF THIS PROCESS, TO CONTINUE THE DEPARTMENT OF TRANSPORTATION'S PROGRAM FOR PARTICIPATION OF DISADVANTAGED MINORITY-OWNED AND WOMEN-OWNED BUSINESSES, AND TO AMEND VARIOUS STATUTES IN CHAPTER 136 OF THE GENERAL STATUTES TO CONFORM WITH THE DEPARTMENT'S FOCUS ON ALL MODES OF TRANSPORTATION INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-28.1 reads as rewritten:

"**§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

(a) All contracts over one million two hundred thousand dollars ($1,200,000) that the Department of Transportation may let for ~~construction~~ construction, maintenance, or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.109 for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. For those federal aid projects, the Department of Transportation shall use only the contract provisions for differing site conditions, suspensions of work ordered by the engineer, or significant changes in the character of the work developed by the North Carolina Department of Transportation and approved by the Board of Transportation.

(b) ~~In those cases~~ For contracts let to carry out the provisions of this Chapter in which the amount of work to be let to contract for ~~highway construction, maintenance,~~construction or repair is one million two hundred thousand dollars ($1,200,000) or less, and for maintenance, excluding resurfacing, that is one million two hundred thousand dollars ($1,200,000) per year or less, at least three informal bids shall be solicited. The term "informal bids" is defined as bids in writing, received pursuant to a written request, without public advertising. All such



contracts shall be awarded to the lowest responsible bidder. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time after the bids are opened.

(c) The construction, maintenance, and repair of ferryboats and all other marine floating equipment and the construction and repair of all types of docks by the Department of Transportation shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and Chapter 44A and Chapter 143C of the General Statutes, the State Budget Act. In cases of a written determination by the Secretary of Transportation that the requirement for compatibility does not make public advertising feasible for the repair of ferryboats, the public advertising as well as the soliciting of informal bids may be waived.

(d) The construction, maintenance, and repair of the highway rest area buildings and facilities, weight stations and the Department of Transportation's participation in the construction of welcome center buildings shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and 136-28.3 and Chapter 143C of the General Statutes, the State Budget Act.

(e) The Department of Transportation may enter into contracts for construction, maintenance, or repair without complying with the bidding requirements of this section upon a determination of the Secretary of Transportation or ~~the State Highway Administrator~~ the Secretary's designee that an emergency exists and that it is not feasible or not in the public interest for the Department of Transportation to comply with the bidding requirements.

(f) Notwithstanding any other provision of law, the Department of Transportation may solicit proposals under rules and regulations adopted by the Department of Transportation for all contracts for professional engineering services and other kinds of professional or specialized services necessary in connection with ~~highway construction, maintenance, or repair.~~the planning, design, maintenance, repair, and construction of transportation infrastructure. In order to promote engineering and design quality and ensure maximum competition by professional firms of all sizes, the Department may establish fiscal guidelines and limitations necessary to promote cost-efficiencies in overhead, salary, and expense reimbursement rates. The right to reject any and all proposals is reserved to the Board of Transportation.

(g) The Department of Transportation may enter into contracts for research and development with educational institutions and nonprofit organizations without soliciting bids or proposals.

(h) The Department of Transportation may enter into contracts for applied research and experimental work without soliciting bids or proposals; provided, however, that if the research or work is for the purpose of testing equipment, materials, or supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply. The Department of Transportation is encouraged to solicit proposals when contracts are entered into with private firms when it is in the public interest to do so.

(i) The Department of Transportation may negotiate and enter into contracts with public utility companies for the lease, purchase, installation, and maintenance of generators for electricity for its ferry repair facilities.

(j) Repealed by Session Laws 2002-151, s. 1, effective October 9, 2002.

(k) The Department of Transportation may accept bids under this section by electronic means and may issue rules governing the acceptance of these bids. For purposes of this subsection "electronic means" is defined as means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(l) The Department of Transportation may enter into as many as two pilot contracts for public private participation in providing litter removal from State right-of-way. Selection of firms to perform this work shall be made using a best value procurement process and shall be without regard to other provisions of law regarding the Adopt-A-Highway Program administered by the Department. Acknowledgement of sponsors may be indicated by

appropriate signs that shall be owned by the Department of Transportation. The size, style, specifications, and content of the signs shall be determined in the sole discretion of the Department of Transportation. The Department of Transportation may issue rules and policies necessary to implement this section.

(m) The Department of Transportation may enter into as many as two pilot contracts for public-private participation in providing real-time traveler information at State-owned rest areas. Selection of firms to perform this work shall be made using a best value procurement process. Recognition of sponsors in the program may be indicated by appropriate acknowledgment for any services provided. The size, style, specifications, and content of the acknowledgment shall be determined in the sole discretion of the Department. Revenues generated pursuant to a contract initiated under this subsection shall be shared with Department of Transportation at a predetermined percentage or rate, and shall be earmarked by the Department to maintain the State owned rest areas from which the revenues are generated. The Department of Transportation may issue guidelines, rules, and policies necessary to administer a pilot program initiated under this subsection."

SECTION 2. G.S. 136-28.10(a) reads as rewritten:

"(a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund construction and repair projects of five hundred thousand dollars ($500,000) or less, and maintenance projects of five hundred thousand dollars ($500,000) or less per year, the Board of Transportation may, after soliciting at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation."

SECTION 3. G.S. 136-28.4(e) reads as rewritten:

"(e) This section expires August 31, ~~2009.~~2010."

SECTION 4. The title of Chapter 136 of the General Statutes reads as rewritten:

"**Chapter 136.**

~~Roads and Highways.~~Transportation."

SECTION 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-4A. Transportation system.**

For the purpose of this Chapter, transportation system is defined as all modes of transportation infrastructure owned and maintained by the North Carolina Department of Transportation, including roads, highways, rail, ferry, aviation, public transportation, and bicycle and pedestrian facilities."

SECTION 6. G.S. 136-18 reads as rewritten:

"**§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

(2) To take over and assume exclusive control for the benefit of the State of any existing county or township roads, and to locate and acquire rights-of-way for any new roads that may be necessary for a State highway system, and subject to the provisions of G.S. 136-19.5(a) and (b) also locate and acquire such additional rights-of-way as may be necessary for the present or future relocation or initial location, above or below ground, of telephone, telegraph, broadband communications, electric and other lines, as well as gas, water, sewerage, oil and other pipelines, to be operated by public utilities as defined in G.S. 62-3(23) and which are regulated under Chapter 62 of the General Statutes, or by municipalities, counties, any entity created by one or more

political subdivisions for the purpose of supplying any such utility services, electric membership corporations, telephone membership corporations, or any combination thereof, with full power to widen, relocate, change or alter the grade or location thereof and to change or relocate any existing roads that the Department of Transportation may now own or may acquire; to acquire by gift, purchase, or otherwise, any road or highway, or tract of land or other property whatsoever that may be necessary for a State ~~highway~~ transportation system and adjacent utility rights-of-way: Provided, all changes or alterations authorized by this subdivision shall be subject to the provisions of G.S. 136-54 to 136-63, to the extent that said sections are applicable: Provided, that nothing in this Chapter shall be construed to authorize or permit the Department of Transportation to allow or pay anything to any county, township, city or town, or to any board of commissioners or governing body thereof, for any existing road or part of any road heretofore constructed by any such county, township, city or town, unless a contract has already been entered into with the Department of Transportation.

...

(39) To enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, ~~with priority given to highways, roads, streets, and bridges,~~ and to plan, design, develop, acquire, construct, equip, maintain, and operate ~~highways, roads, streets, bridges, and existing rail, as well as properties adjoining existing rail lines~~ transportation infrastructure in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter.

...."

SECTION 7. G.S. 136-19 reads as rewritten:

"**§ 136-19. Acquisition of land and deposits of materials; condemnation proceedings; federal parkways.**

(a) The Department of Transportation is vested with the power to acquire either in the nature of an appropriate easement or in fee simple such rights-of-way and title to such land, gravel, gravel beds or bars, sand, sand beds or bars, rock, stone, boulders, quarries, or quarry beds, lime or other earth or mineral deposits or formations, and such standing timber as it may deem necessary and suitable for transportation infrastructure construction, including road construction, maintenance, and repair, and the necessary approaches and ways through, and a sufficient amount of land surrounding and adjacent thereto, as it may determine to enable it to properly prosecute the work, by purchase, donation, or condemnation, in the manner hereinafter set out. If the Department of Transportation acquires by purchase, donation, or condemnation part of a tract of land in fee simple for highway right-of-way as authorized by this section and

the Department of Transportation later determines that the property acquired for transportation infrastructure, including highway right-of-way, or a part of that property, is no longer needed for ~~highway~~ infrastructure right-of-way, then the Department shall give first consideration to any offer to purchase the property made by the former owner. The Department may refuse any offer that is less than the current market value of the property, as determined by the Department. Unless the Department acquired an entire lot, block, or tract of land belonging to the former owner, the former owner must own the remainder of the lot, block, or tract of land from which the property was acquired to receive first consideration by the Department of their offer to purchase the property.

(b) Notwithstanding the provisions of subsection (a), if the Department acquires the property by condemnation and determines that the property or a part of that property is no longer needed for highway ~~right-of-way,~~right-of-way or other transportation projects, the Department of Transportation may reconvey the property to the former owner upon payment by the former owner of the full price paid to the owner when the property was taken, the cost of any improvements, together with interest at the legal rate to the date when the decision was made to offer the return of the property. Unless the Department acquired an entire lot, block, or tract of land belonging to the former owner, the former owner must own the remainder of the lot, block, or tract of land from which the property was acquired to purchase the property pursuant to this subsection.

(c) The requirements of this section for reconveying property to the former owner, regardless of whether such property was acquired by purchase, donation, or condemnation, shall not apply to property acquired outside the right-of-way as an "uneconomic remnant" or "residue".

(d) The Department of Transportation is also vested with the power to acquire such additional land alongside of the rights-of-way ~~or~~ for transportation projects, including roads as in its opinion may be necessary and proper for the protection of the transportation projects, including roads and roadways, and such additional area as may be necessary as by it determined for approaches to and from such material and other requisite area as may be desired by it for working purposes. The Department of Transportation may, in its discretion, with the consent of the landowner, acquire in fee simple an entire lot, block or tract of land, if by so doing, the interest of the public will be best served, even though said entire lot, block or tract is not immediately needed for right-of-way purposes.

(e) Notwithstanding any other provisions of law or eminent domain powers of utility companies, utility membership corporations, municipalities, counties, entities created by political subdivisions, or any combination thereof, and in order to prevent undue delay of highway projects because of utility conflicts, the Department of Transportation may condemn or acquire property in fee or appropriate easements necessary to provide ~~highway~~ transportation project rights-of-way for the relocation of utilities when required in the construction, reconstruction, or rehabilitation of a State ~~highway~~ transportation project. The Department of Transportation shall also have the authority, subject to the provisions of G.S. 136-19.5(a) and (b), to, in its discretion, acquire rights-of-way necessary for the present or future placement of utilities as described in G.S. 136-18(2).

(f) Whenever the Department of Transportation and the owner or owners of the lands, materials, and timber required by the Department of Transportation to carry on the work as herein provided for, are unable to agree as to the price thereof, the Department of Transportation is hereby vested with the power to condemn the lands, materials, and timber and in so doing the ways, means, methods, and procedure of Article 9 of this Chapter shall be used by it exclusively.

(g) The Department of Transportation shall have the same authority, under the same provisions of law provided for construction of State ~~highways,~~transportation projects, for acquirement of all rights-of-way and easements necessary to comply with the rules and

regulations of the United States government for the construction of federal parkways and entrance roads to federal parks in the State of North Carolina. The acquirement of a total of 125 acres per mile of said parkways, including roadway and recreational, and scenic areas on either side thereof, shall be deemed a reasonable area for said purpose. The right-of-way acquired or appropriated may, at the option of the Department of Transportation, be a fee-simple title. The said Department of Transportation is hereby authorized to convey such title so acquired to the United States government, or its appropriate agency, free and clear of all claims for compensation. All compensation contracted to be paid or legally assessed shall be a valid claim against the Department of Transportation, payable out of the State Highway Fund. Any conveyance to the United States Department of Interior of land acquired as provided by this section shall contain a provision whereby the State of North Carolina shall retain concurrent jurisdiction over the areas conveyed. The Governor is further authorized to grant concurrent jurisdiction to lands already conveyed to the United States Department of Interior for parkways and entrances to parkways.

(h) The action of the Department of Transportation heretofore taken in the acquirement of areas for the Blue Ridge Parkway in accordance with the rules and regulations of the United States government is hereby ratified and approved and declared to be a reasonable exercise of the discretion vested in the said Department of Transportation in furtherance of the public interest.

(i) When areas have been tentatively designated by the United States government to be included within a parkway, but the final survey necessary for the filing of maps as provided in this section has not yet been made, no person shall cut or remove any timber from said areas pending the filing of said maps after receiving notice from the Department of Transportation that such area is under investigation; and any property owner who suffers loss by reason of the restraint upon his right to use the said timber pending such investigation shall be entitled to recover compensation from the Department of Transportation for the temporary appropriation of his property, in the event the same is not finally included within the appropriated area, and the provisions of this section may be enforced under the same law now applicable for the adjustment of compensation in the acquirement of rights-of-way on other property by the Department of Transportation."

SECTION 8. G.S. 136-19.3 reads as rewritten:

"**§ 136-19.3. Acquisition of buildings.**

Where the right-of-way of a proposed highway or other transportation project necessitates the taking of a portion of a building or structure, the Department of Transportation may acquire, by condemnation or purchase, the entire building or structure, together with the right to enter upon the surrounding land for the purpose of removing said building or structure, upon a determination by the Department of Transportation based upon an affidavit of an independent real estate appraiser that the partial taking will substantially destroy the economic value or utility of the building or structure and (i) that an economy in the expenditure of public funds will be promoted thereby; or (ii) that it is not feasible to cut off a portion of the building without destroying the entire building; or (iii) that the convenience, safety or improvement of the ~~highway~~ transportation project will be promoted thereby; provided, nothing herein contained shall be deemed to give the Department of Transportation authority to condemn the underlying fee of the portion of any building or structure which lies outside the right-of-way of any existing or proposed transportation project, including a public road, street or highway."

SECTION 9. G.S. 136-19.5 reads as rewritten:

"**§ 136-19.5. Utility right-of-way agreements.**

(a) Before the Department of Transportation acquires or proposes to acquire additional rights-of-way for the purpose of accommodating the installation of utilities as authorized by G.S. 136-18 and G.S. 136-19, there shall first be voluntary agreements with the appropriate utilities regarding the acquisition and use of the particular right-of-way and requiring the

payment to the Department of Transportation for or recapture of all of its costs associated with that acquisition, including the use of funds allocated to such acquisition. Such agreements may take into account the fact that more than one utility can make use of the right-of-way. No such agreement shall constitute a sale of the right-of-way and all such rights-of-way shall remain under the control of the Department of Transportation.

(b) A prior agreement between the Department of Transportation and the affected utilities may be entered into but is not required when the acquisition of right-of-way is for the purpose of relocation of utilities due to construction, reconstruction, or rehabilitation of a State ~~highway~~ transportation project. The Department of Transportation shall notify the affected utility whose facilities are being relocated and the affected utility may choose not to participate in the proposed plan for right-of-way acquisition. The decision not to participate in the proposed plan of right-of-way acquisition shall not affect any other rights the utility may have as a result of the relocation of its lines or pipelines.

(c) Whenever the Department of Transportation requires the relocation of utilities located in a right-of-way for which the utility owner contributed to the cost of acquisition, the Department of Transportation shall reimburse the utility owner for the cost of moving those utilities.

(d) Any additional right-of-way obtained pursuant to this section which is part of a railroad right-of-way shall be returned to the railroad or its successor in interest when the Department of Transportation and the affected utilities agree that the additional right-of-way is no longer useful for utility purposes and the Department of Transportation determines that it is no longer useful for ~~highway~~ transportation purposes."

SECTION 10. G.S. 136-26 reads as rewritten:

"**§ 136-26. Closing of State ~~highways~~ transportation infrastructure during construction; injury to barriers, warning signs, etc.**

If it shall appear necessary to the Department of Transportation, its officers, or appropriate employees, to close any ~~road or highway~~ transportation infrastructure coming under its jurisdiction so as to permit ~~of~~ proper completion of work which is being performed, ~~such~~ the Department of Transportation, its officers or employees, may close, or cause to be closed, the whole or any portion of ~~such road or highway~~ transportation infrastructure deemed necessary to be excluded from public travel. While any ~~such road or highway,~~ transportation infrastructure, or portion thereof, is so closed, or while any ~~such road or highway,~~transportation infrastructure, or portion thereof, is in process of construction or maintenance, ~~such~~ the Department of Transportation, its officers or appropriate employees, or its contractor, under authority from ~~such~~ the Department of Transportation, may erect, or cause to be erected, suitable barriers or obstruction thereon; may post, or cause to be posted, conspicuous notices to the effect that the ~~road or highway,~~transportation infrastructure, or portion thereof, is closed; and may place warning signs, lights and lanterns on ~~such road or highway,~~transportation infrastructure, or portions thereof. When ~~such road or highway~~ infrastructure is closed to the public or in process of construction or maintenance, as provided herein, any person who willfully drives into new construction work, breaks down, removes, injures or destroys any such barrier or barriers or obstructions on the road closed or being constructed, or tears down, removes or destroys any such notices, or extinguishes, removes, injures or destroys any such warning lights or lanterns so erected, posted or placed, shall be guilty of a Class 1 misdemeanor."

SECTION 11. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State ~~highway~~ transportation project right-of-way, that are necessary to be relocated for a State ~~highway~~ transportation improvement project and that are owned by: (i) a municipality with a population of 5,500 or less according to

the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural water system operated by a County as an enterprise system; (v) any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes; or (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 5,500 according to the latest decennial census."

SECTION 12. G.S. 136-27.2 reads as rewritten:

"**§ 136-27.2. Relocation of county-owned natural gas lines located on Department of Transportation right-of-way.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of county-owned natural gas lines, located within the existing State ~~highway~~ transportation project right-of-way, that the Department needs to relocate due to a State ~~highway~~ transportation improvement project."

SECTION 13. G.S. 136-28.2 reads as rewritten:

"**§ 136-28.2. Relocated ~~highways;~~transportation infrastructure; contracts let by others.**

The Department of Transportation is authorized to permit power companies and governmental agencies, including agencies of the federal government, when it is necessary to relocate ~~a public highway~~ transportation infrastructure by reason of the construction of a dam, to let contracts for the construction of the relocated ~~highway.~~transportation infrastructure. The construction shall be in accordance with the Department of Transportation standards and specifications. The Department of Transportation is further authorized to reimburse the power company or governmental agency for betterments arising out of the construction of the relocated ~~highway,~~transportation infrastructure, provided the bidding and the award is in accordance with the Department of Transportation's regulations and the Department of Transportation approves the award of the contract."

SECTION 14. G.S. 136-28.6 reads as rewritten:

"**§ 136-28.6. Participation by the Department of Transportation with private developers.**

(a) The Department of Transportation may participate in private engineering and construction contracts for State ~~highways.~~transportation systems.

(b) In order to qualify for State participation, the project must be:

(1) The construction of a ~~street or highway~~ transportation project on the Transportation Improvement Plan adopted by the Department of Transportation; or

(2) The construction of a ~~street or highway~~ transportation project on a mutually adopted transportation plan that is designated a Department of Transportation responsibility.

(c) Only those projects in which the right-of-way is furnished without cost to the Department of Transportation are eligible.

(d) The Department's participation shall be limited to fifty percent (50%) of the amount of any engineering contract and/or any construction contract let for the project.

(e) Department of Transportation participation in the contracts shall be limited to cost associated with normal practices of the Department of Transportation.

(f) Plans for the project must meet Department of Transportation standards and shall be approved by the Department of Transportation.

(g) Projects shall be constructed in accordance with the plans and specifications approved by the Department of Transportation.

(h) The Secretary shall report in writing, on a quarterly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between a private developer and the Department of Transportation for participation in private engineering and construction contracts under this section.

(i) Counties and municipalities may participate financially in private engineering, land acquisition, and construction contracts for transportation projects ~~pertaining to streets or highways~~ which meet the requirements of subsection (b) of this section within their jurisdiction."

SECTION 15. G.S. 136-28.9 reads as rewritten:

"**§ 136-28.9. Retainage – construction contracts.**

Notwithstanding the provisions of G.S. 147-69.1, 147-77, 147-80, 147-86.10, and 147-86.11, or any other provision of the law, the Department of Transportation is authorized to enter into trust agreements with banks and contractors for the deposit of retainage and for the payment to contractors of income on these deposits, in connection with ~~highway~~ transportation construction contracts, in trust accounts with banks in accordance with Department of Transportation regulations, including deposit insurance and collateral requirements. The Department of Transportation may contract with those banks without trust departments in addition to those with trust departments. Funds deposited in any trust account shall be invested only in bonds, securities, certificates of deposits, or other forms of investment authorized by G.S. 147-69.1 for the investment of State funds. The trust agreement may also provide for interest to be paid on uninvested cash balances."

SECTION 16. G.S. 136-29 reads as rewritten:

"**§ 136-29. Adjustment and resolution of ~~highway construction~~ Department of Transportation contract claim.**

(a) A contractor who has completed a contract with the Department of Transportation ~~to construct a State highway~~ let in accordance with Article 2 of this Chapter and who has not received the amount he claims is due under the contract may submit a verified written claim to the ~~State Highway Administrator~~ Secretary of Transportation for the amount the contractor claims is due. The claim shall be submitted within 60 days after the contractor receives his final statement from the Department and shall state the factual basis for the claim.

The ~~State Highway Administrator~~ Secretary or the Secretary's designee shall investigate a submitted claim within 90 days of receiving the claim or within any longer time period agreed to by the ~~State Highway Administrator~~ Secretary or the Secretary's designee and the contractor. The contractor may appear before the ~~State Highway Administrator,~~Secretary or the Secretary's designee, either in person or through counsel, to present facts and arguments in support of ~~his~~ the claim. The ~~State Highway Administrator~~ Secretary or the Secretary's designee may allow, deny, or compromise the claim, in whole or in part. The ~~State Highway Administrator~~ Secretary or the Secretary's designee shall give the contractor a written statement of the ~~State Highway Administrator's~~ decision on the contractor's claim.

(b) A contractor who is dissatisfied with the ~~State Highway Administrator's~~ Secretary or the Secretary's designee's decision on the contractor's claim may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within 60 days of receiving the ~~State Highway Administrator's~~ written statement of the decision.

(c) As to any portion of a claim that is denied by the ~~State Highway Administrator,~~Secretary or the Secretary's designee, the contractor may, in lieu of the procedures set forth in subsection (b) of this section, within six months of receipt of the ~~State Highway Administrator's~~ final decision, institute a civil action for the sum he claims to be entitled to under the contract by filing a verified complaint and the issuance of a summons in the Superior Court of Wake County or in the superior court of any county where the work under the contract was performed. The procedure shall be the same as in all civil actions except that all issues shall be tried by the judge, without a jury.

(d) The provisions of this section shall be part of every contract ~~for State highway construction~~ let in accordance with Article 2 of this Chapter between the Department of

Transportation and a contractor. A provision in a contract that conflicts with this section is invalid."

SECTION 17. G.S. 136-35 reads as rewritten:

"**§ 136-35. Cooperation with other states and federal government.**

It shall also be the duty of the Department of Transportation, where possible, to cooperate with the state highway commissions of other states and with the federal government in the correlation of roads and other transportation systems so as to form a system of intercounty, interstate, and national ~~highways.~~highways and transportation systems. The Department of Transportation may enter into reciprocal agreements with other states and the ~~Federal Highway Administration~~ United States Department of Transportation to perform inspection work and to pay reasonable fees for inspection work performed by others in connection with supplies and materials used in ~~highway~~ transportation construction and repair."

SECTION 18. The title of Article 2A of Chapter 136 of the General Statutes and G.S. 136-44.1 read as rewritten:

"Article 2A.

State ~~Roads~~ Transportation Generally.

"**§ 136-44.1. Statewide ~~road~~ transportation system; policies.**

The Department of Transportation shall develop and maintain a statewide system of ~~roads and highways~~ roads, highways, and other transportation systems commensurate with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board of Transportation shall formulate general policies and plans for a statewide ~~system of highways.~~transportation system. The Board shall formulate policies governing the construction, improvement and maintenance of ~~roads and highways~~ roads, highways, and other transportation systems of the State with due regard to farm-to-market roads and school bus routes."

SECTION 19. G.S. 136-44.2 reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

The Director of the Budget shall include in the "Current Operations Appropriations ~~Bill~~ Act" an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, ~~and~~ State parks road ~~systems.~~systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall include State-maintained, nonhighway modes of transportation as well.

All construction and maintenance programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. No federally eligible construction project may be funded entirely with State funds unless the Department of Transportation has first reported to the Joint Legislative Commission on Governmental Operations. For purposes of this section, "federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

The "Current Operations Appropriations ~~Bill~~"Act" shall also contain the proposed appropriations of State funds for use in each county for maintenance and construction of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the construction and maintenance of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this paragraph. The Director of the Budget may allocate part or all of the excess among reserves for access and public roads, for unforeseen events requiring prompt action, or for other urgent needs. The amount not allocated to any of these reserves by the Director of the Budget shall be credited to a reserve for maintenance. The Board of Transportation shall report monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of funds in the maintenance reserve.

The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars ($100,000) before any other allocations from the appropriations for State maintenance for primary, secondary, and urban road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 20. G.S. 136-44.2C reads as rewritten:

"**§ 136-44.2C. Special appropriations for State construction.**

Special appropriations for the construction of State highways may be used for the planning, design, right-of-way acquisition, and construction of ~~highway~~ transportation projects for the State ~~Highway~~ Transportation System and Federal Aid System, including secondary roads, contained in the Transportation Improvement Program prepared pursuant to G.S. 143B-350(f)(4). Funding from the special appropriations used for secondary road projects in the Transportation Improvement Program is not subject to the allocation formula and restrictions of G.S. 136-44.2, 136-44.2A, or 136-44.5."

SECTION 21. G.S. 136-44.4 reads as rewritten:

"**§ 136-44.4. Annual construction program; State primary and urban systems.**

The Department of Transportation shall develop an annual construction program for the state-funded improvements on the primary and urban system highways and for all other federal-aid construction programs which shall be approved by the Board of Transportation. It shall include a statement of the immediate and long-range goals. The Department shall develop criteria for determining priorities of projects to insure that the long-range goals and the statewide needs as a whole are met, which shall be approved by the Board of Transportation. The annual construction program shall list all projects according to priority. A brief description of each project shall be given, identifying the highway number, county, nature of the improvement and the estimated cost of the project shall be indicated. Other transportation systems shall be similarly identified. Copies of the most recent annual work program shall be

made available to any member of the General Assembly upon request. The Department of Transportation shall make annual reports after the completion of the fiscal year to be made available to the legislative committees and subcommittees for highway matters, county commissioners, and other persons upon request. These reports shall indicate the expenditure on each of the projects and the status of all projects set out in the work program."

SECTION 22. The title of Article 3A of Chapter 136 of the General Statutes reads as rewritten:

"Article 3A.

~~Streets and Highways~~ Transportation Systems in and around Municipalities."

SECTION 23. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Local government participation in improvements to the State highway system.**

(a) Municipal Participation Authorized. – A municipality may, but is not required to, participate in the right-of-way and construction cost of a State ~~highway~~ transportation improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) Process for Initiating Participation. – A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) Type of Participation Authorized. – A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State ~~highway~~ transportation system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that purpose. All improvements to ~~the~~ State ~~highway system~~ transportation systems shall be done in accordance with the specifications and requirements of the Department of Transportation.

(c1) No TIP Disadvantage for Participation. – If a county or municipality participates in a State ~~highway~~ transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(c2) Distribution of State Funds Made Available by County or Municipal Participation. – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) Limitation on Agreements. – The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) Authorization to Participate in Development-Related Improvements. – When in the review and approval by a local government of plans for the development of property abutting ~~the~~ a State ~~highway~~ transportation system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the local government is authorized to construct, or have constructed, said improvements to the State ~~highway~~ transportation system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, ~~and~~ drainage ~~facilities.~~ facilities, and other transportation system improvements. All improvements to ~~the~~ a State ~~highway~~ transportation system shall be

constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with the Department of Transportation, a county or municipality may reimburse the Department of Transportation for the cost of all improvements, including additional right-of-way, for a ~~street or~~ street, highway improvement ~~projects~~ projects, or other transportation system improvements approved by the Board of Transportation under G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.

(f) Report to General Assembly. – The Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between counties, municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) Local Government Acquisition of Rights-of-Way. – In the acquisition of rights-of-way for any State ~~highway system street or~~ street, highway, or other transportation project, the county or municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, counties and municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "county," "municipality" or local governing body, and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "county or municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the county or municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. – In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State ~~highway~~ transportation system.

(i) Changes to Local Government Participation Agreement. – Either the local government or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Local Governments Party to Rights-of-Way Proceeding. – Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State ~~highway system street or highway~~ transportation system shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Repealed by Session Laws 2008-180, s. 6, effective August 4, 2008."

SECTION 24. G.S. 136-66.5 reads as rewritten:

"**§ 136-66.5. Improvements in urban ~~area streets~~ areas to reduce traffic congestion.**

(a) The Department of Transportation is authorized to enter into contracts with municipalities for ~~highway~~ improvement projects which are a part of an overall plan authorized under the provisions of section 135 of Title 23 of the United States Code, the purpose of which is to facilitate the flow of ~~traffic~~ people and goods in urban areas. In connection with these contracts, the Department of Transportation and the municipalities are authorized to enter into contracts for improvement projects on the municipal system of streets, and pursuant to contract with the municipalities, the Department of Transportation is authorized to construct or to let to contract the said improvement projects on streets on the municipal street system or other transportation system; provided that no portion of the cost of the improvements made on the municipal ~~street~~ system shall be paid from Department of Transportation funds except the proportionate share of funds received from the ~~Federal Highway Administration~~ United States Department of Transportation and allocated for the purposes set out in section 135 of Title 23 of the United States Code. Pursuant to contract with the Department of Transportation, the municipalities may construct or let to contract the said improvement projects on the municipal ~~street~~ system and the Department of Transportation is authorized to pay over to the municipalities the proportionate share of funds received pursuant to section 135 of Title 23 of the United States Code; provided that no portion of the costs of the improvements made on the municipal ~~street~~ system shall be paid for from the State Highway Fund except those received from the ~~Federal Highway Administration~~ United States Department of Transportation and allocated for the purpose set out in section 135 of Title 23 of the United States Code.

(b) The municipalities are authorized to enter into contracts with the Department of Transportation for improvement projects which are a part of an overall plan authorized under the provisions of section 135 of Title 23 of the United States Code, the purpose of which is to facilitate the flow of traffic in urban areas, on the State highway system streets within the municipalities with the approval of the ~~Federal Highway Administration.~~United States Department of Transportation. Pursuant to contract for the foregoing improvement projects, the municipalities are authorized to construct or let to contract the said improvement projects and the Department of Transportation is authorized to reimburse the municipalities for the cost of the construction of the said improvement projects.

(c) The municipalities in which improvements are made pursuant to section 135 of Title 23 of the United States Code shall provide proper maintenance and operation of such completed projects and improvements on the municipal system streets and other transportation infrastructure or will provide other means for assuring proper maintenance and operation as is required by the Department of Transportation. In the event the municipality fails to maintain such project or provide for their proper maintenance, the Department of Transportation is authorized to maintain the said projects and improvements and deduct the cost from allocations to the municipalities made under the provisions of G.S. 136-41.1."

SECTION 25. G.S. 136-102.2 reads as rewritten:

"**§ 136-102.2. Authorization required for test drilling or boring upon right-of-way; filing record of results with Department of Transportation.**

No person, firm or corporation shall make any test drilling or boring upon the right-of-way of any ~~road or highway,~~transportation system, under the jurisdiction of the Department of Transportation, until written authorization has been obtained from the owner or the person in charge of the land on which the highway easement is located. A complete record showing the results of the test drilling or boring shall be filed forthwith with the chairman [Secretary] of the Department of Transportation and shall be a public record. This section shall not apply to the Department of Transportation making test drilling or boring for highway purposes only."

SECTION 26. G.S. 136-103.1 reads as rewritten:

"**§ 136-103.1. Outside counsel.**

The Attorney General is authorized to employ outside counsel as he deems necessary for the purpose of obtaining title abstracts and title certificates for ~~highway~~ transportation system rights-of-way and for assistance in the trial of condemnation cases involving the acquisition of rights-of-way and other interests in land for the purpose of ~~highway~~ transportation construction. Compensation, as approved by the Attorney General, shall be paid out of the appropriations from the Highway Fund."

SECTION 27. G.S. 136-177 reads as rewritten:

"**§ 136-177. Limitation on funds obligated from Trust Fund.**

In a fiscal year, the Department of Transportation may not obligate more Trust Fund revenue, other than revenue allocated for city streets under G.S. 136-176(b)(3) or secondary roads under G.S. 136-176(b)(4) and G.S. 20-85(b), to construct or improve highways and other forms of transportation than the amount indicated in the following table:

Fiscal Year	Maximum Expenditure
1989-90	$200,000,000
1990-91	250,000,000
1991-92	300,000,000
1992-93	400,000,000
1993-94	500,000,000
1994-95 and following years	Unlimited

The amount of revenue credited to the Trust Fund in a fiscal year under G.S. 136-176(a) that exceeds the maximum allowable expenditure set in the table above may be used only for preliminary planning and design and the acquisition of rights-of-way for scheduled highways and highway improvements to be funded from the Trust Fund."

SECTION 28. This act becomes effective August 1, 2009.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 828

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

S828-ARO-23 [v.1]

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

Date _____,2009

Representative _____

moves to amend the bill on page 10, line 24, by deleting the phrase "'Current Operations Appropriations Bill"', and substituting the phrase "'Current Operations Appropriations ~~Bill"~~ Act"';
and on page 15, line 20, by rewriting the line to read:
"**SECTION 28.** This act becomes effective August 1, 2009.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

SENATE BILL 828:
Bidding Process Changes/Maintenance and Op

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	June 23, 2009
Introduced by:	Sen. Jenkins	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	Fourth Edition		Committee Counsel

SUMMARY: Senate Bill 828 does the following three things:

- ***[Changes the maximum dollar amount at which contracts for highway maintenance may be let using an informal bid process from $1,200,000 or less to $1,200,000 per year or less, and changes the maximum dollar amount for small project bidding for maintenance projects from $500,000 or less to $500,000 per year or less.***
- ***Extends the sunset on the Department of Transportation's Disadvantaged Minority-Owned and Women-Owned Businesses Program from August 31, 2009, to August 31, 2010.***
- ***Updates various statutes in Chapter 136 to make technical and clarifying changes and to reflect the Department's focus on all transportation infrastructure, rather than just roads and highways.***

[As introduced, this bill was identical to H1097, as introduced by Rep. Martin, which is currently in House Transportation, if favorable, State Government/State Personnel.]

ILL ANALYSIS: Senate Bill 828 makes the following changes to Chapter 136 of the General Statutes:

Informal bid process for highway maintenance. Under current law, contracts for highway construction, maintenance, and repair that are $1,200,000 or less may be let using an informal bid process. The bill would allow contracts for maintenance that are $1,200,000 *per year* or less to be let using the informal bid process.

G.S. 136-28.10 allows for projects of $500,000 or less to be awarded after soliciting at least three informal bids from Small Business Enterprises. The bill would allow projects for maintenance that are $500,000 or less *per year* to be let through that informal bid process.

Continue Disadvantaged Minority-Owned and Women-Owned Businesses Program. The Department's program was established pursuant to G.S. 136-28.4, which will expire August 31, 2009. The bill would extend the sunset to August 31, 2010.

Update Chapter 136/Transportation Infrastructure. The bill would update the name of Chapter 136 from "Roads and Highways" to "Transportation", add a new section to provide a definition of "transportation system" to include all modes of transportation infrastructure, and make technical and clarifying changes and update terminology throughout the Chapter to reflect the Department's focus on all transportation infrastructure.

EFFECTIVE DATE: The act becomes effective July 1, 2009.

'endy Graf Ray, counsel to the House Transportation committee, substantially contributed to this summary.

S828-SMRO-128(e4) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 4

SENATE BILL 828
Commerce Committee Substitute Adopted 5/11/09
Third Edition Engrossed 5/12/09
House Committee Substitute Favorable 6/4/09

Short Title: Bidding Process Changes/Maintenance and Op. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MAXIMUM AMOUNT AT WHICH PROJECTS MAY UNDERGO AN INFORMAL BIDDING PROCESS AND CLARIFY THE APPLICATION OF THIS PROCESS, TO CONTINUE THE DEPARTMENT OF TRANSPORTATION'S PROGRAM FOR PARTICIPATION OF DISADVANTAGED MINORITY-OWNED AND WOMEN-OWNED BUSINESSES, AND TO AMEND VARIOUS STATUTES IN CHAPTER 136 OF THE GENERAL STATUTES TO CONFORM WITH THE DEPARTMENT'S FOCUS ON ALL MODES OF TRANSPORTATION INFRASTRUCTURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-28.1 reads as rewritten:

"**§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

(a) All contracts over one million two hundred thousand dollars ($1,200,000) that the Department of Transportation may let for ~~construction~~ construction, maintenance, or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.109 for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. For those federal aid projects, the Department of Transportation shall use only the contract provisions for differing site conditions, suspensions of work ordered by the engineer, or significant changes in the character of the work developed by the North Carolina Department of Transportation and approved by the Board of Transportation.

(b) ~~In those cases~~ For contracts let to carry out the provisions of this Chapter in which the amount of work to be let to contract for ~~highway construction, maintenance,~~construction or repair is one million two hundred thousand dollars ($1,200,000) or less, and for maintenance, excluding resurfacing, that is one million two hundred thousand dollars ($1,200,000) per year or less, at least three informal bids shall be solicited. The term "informal bids" is defined as bids in writing, received pursuant to a written request, without public advertising. All such contracts shall be awarded to the lowest responsible bidder. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time after the bids are opened.

(c) The construction, maintenance, and repair of ferryboats and all other marine floating equipment and the construction and repair of all types of docks by the Department of Transportation shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and Chapter 44A and Chapter 143C of the General Statutes, the State Budget Act. In cases of a written determination by the Secretary of Transportation that the requirement for compatibility does not make public advertising feasible for the repair of ferryboats, the public advertising as well as the soliciting of informal bids may be waived.

(d) The construction, maintenance, and repair of the highway rest area buildings and facilities, weight stations and the Department of Transportation's participation in the construction of welcome center buildings shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and 136-28.3 and Chapter 143C of the General Statutes, the State Budget Act.

(e) The Department of Transportation may enter into contracts for construction, maintenance, or repair without complying with the bidding requirements of this section upon a determination of the Secretary of Transportation or ~~the State Highway Administrator~~ the Secretary's designee that an emergency exists and that it is not feasible or not in the public interest for the Department of Transportation to comply with the bidding requirements.

(f) Notwithstanding any other provision of law, the Department of Transportation may solicit proposals under rules and regulations adopted by the Department of Transportation for all contracts for professional engineering services and other kinds of professional or specialized services necessary in connection with ~~highway construction, maintenance, or repair.~~the planning, design, maintenance, repair, and construction of transportation infrastructure. In order to promote engineering and design quality and ensure maximum competition by professional firms of all sizes, the Department may establish fiscal guidelines and limitations necessary to promote cost-efficiencies in overhead, salary, and expense reimbursement rates. The right to reject any and all proposals is reserved to the Board of Transportation.

(g) The Department of Transportation may enter into contracts for research and development with educational institutions and nonprofit organizations without soliciting bids or proposals.

(h) The Department of Transportation may enter into contracts for applied research and experimental work without soliciting bids or proposals; provided, however, that if the research or work is for the purpose of testing equipment, materials, or supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply. The Department of Transportation is encouraged to solicit proposals when contracts are entered into with private firms when it is in the public interest to do so.

(i) The Department of Transportation may negotiate and enter into contracts with public utility companies for the lease, purchase, installation, and maintenance of generators for electricity for its ferry repair facilities.

(j) Repealed by Session Laws 2002-151, s. 1, effective October 9, 2002.

(k) The Department of Transportation may accept bids under this section by electronic means and may issue rules governing the acceptance of these bids. For purposes of this subsection "electronic means" is defined as means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(l) The Department of Transportation may enter into as many as two pilot contracts for public private participation in providing litter removal from State right-of-way. Selection of firms to perform this work shall be made using a best value procurement process and shall be without regard to other provisions of law regarding the Adopt-A-Highway Program administered by the Department. Acknowledgement of sponsors may be indicated by appropriate signs that shall be owned by the Department of Transportation. The size, style, specifications, and content of the signs shall be determined in the sole discretion of the

Department of Transportation. The Department of Transportation may issue rules and policies necessary to implement this section.

(m) The Department of Transportation may enter into as many as two pilot contracts for public-private participation in providing real-time traveler information at State-owned rest areas. Selection of firms to perform this work shall be made using a best value procurement process. Recognition of sponsors in the program may be indicated by appropriate acknowledgment for any services provided. The size, style, specifications, and content of the acknowledgment shall be determined in the sole discretion of the Department. Revenues generated pursuant to a contract initiated under this subsection shall be shared with Department of Transportation at a predetermined percentage or rate, and shall be earmarked by the Department to maintain the State owned rest areas from which the revenues are generated. The Department of Transportation may issue guidelines, rules, and policies necessary to administer a pilot program initiated under this subsection."

SECTION 2. G.S. 136-28.10(a) reads as rewritten:

"(a) Notwithstanding the provisions of G.S. 136-28.4(b), for Highway Fund or Highway Trust Fund construction and repair projects of five hundred thousand dollars ($500,000) or less, and maintenance projects of five hundred thousand dollars ($500,000) or less per year, the Board of Transportation may, after soliciting at least three informal bids in writing from Small Business Enterprises, award contracts to the lowest responsible bidder. The Department of Transportation may identify projects likely to attract increased participation by Small Business Enterprises, and restrict the solicitation and award to those bidders. The Board of Transportation may delegate full authority to award contracts, adopt necessary rules, and administer the provisions of this section to the Secretary of Transportation."

SECTION 3. G.S. 136-28.4(e) reads as rewritten:

"(e) This section expires August 31, ~~2009~~2010."

SECTION 4. The title of Chapter 136 of the General Statutes reads as rewritten:

"**Chapter 136.**

~~Roads and Highways.~~Transportation."

SECTION 5. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-4A. Transportation system.**

For the purpose of this Chapter, transportation system is defined as all modes of transportation infrastructure owned and maintained by the North Carolina Department of Transportation, including roads, highways, rail, ferry, aviation, public transportation, and bicycle and pedestrian facilities."

SECTION 6. G.S. 136-18 reads as rewritten:

"**§ 136-18. Powers of Department of Transportation.**

The said Department of Transportation is vested with the following powers:

...

(2) To take over and assume exclusive control for the benefit of the State of any existing county or township roads, and to locate and acquire rights-of-way for any new roads that may be necessary for a State highway system, and subject to the provisions of G.S. 136-19.5(a) and (b) also locate and acquire such additional rights-of-way as may be necessary for the present or future relocation or initial location, above or below ground, of telephone, telegraph, broadband communications, electric and other lines, as well as gas, water, sewerage, oil and other pipelines, to be operated by public utilities as defined in G.S. 62-3(23) and which are regulated under Chapter 62 of the General Statutes, or by municipalities, counties, any entity created by one or more political subdivisions for the purpose of supplying any such utility services, electric membership corporations, telephone membership corporations, or

any combination thereof, with full power to widen, relocate, change or alter the grade or location thereof and to change or relocate any existing roads that the Department of Transportation may now own or may acquire; to acquire by gift, purchase, or otherwise, any road or highway, or tract of land or other property whatsoever that may be necessary for a State ~~highway~~ transportation system and adjacent utility rights-of-way: Provided, all changes or alterations authorized by this subdivision shall be subject to the provisions of G.S. 136-54 to 136-63, to the extent that said sections are applicable: Provided, that nothing in this Chapter shall be construed to authorize or permit the Department of Transportation to allow or pay anything to any county, township, city or town, or to any board of commissioners or governing body thereof, for any existing road or part of any road heretofore constructed by any such county, township, city or town, unless a contract has already been entered into with the Department of Transportation.

...

(39) To enter into partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, ~~with priority given to highways, roads, streets, and bridges,~~ and to plan, design, develop, acquire, construct, equip, maintain, and operate ~~highways, roads, streets, bridges, and existing rail, as well as properties adjoining existing rail lines~~ transportation infrastructure in this State. An agreement entered into under this subdivision requires the concurrence of the Board of Transportation. The Department shall report to the Chairs of the Joint Legislative Transportation Oversight Committee, the Chairs of the House of Representatives Appropriations Subcommittee on Transportation, and the Chairs of the Senate Appropriations Committee on the Department of Transportation, at the same time it notifies the Board of Transportation of any proposed agreement under this subdivision. Any contracts for construction of highways, roads, streets, and bridges which are awarded pursuant to an agreement entered into under this section shall comply with the competitive bidding requirements of Article 2 of this Chapter.

...."

SECTION 7. G.S. 136-19 reads as rewritten:

"**§ 136-19. Acquisition of land and deposits of materials; condemnation proceedings; federal parkways.**

(a) The Department of Transportation is vested with the power to acquire either in the nature of an appropriate easement or in fee simple such rights-of-way and title to such land, gravel, gravel beds or bars, sand, sand beds or bars, rock, stone, boulders, quarries, or quarry beds, lime or other earth or mineral deposits or formations, and such standing timber as it may deem necessary and suitable for transportation infrastructure construction, including road construction, maintenance, and repair, and the necessary approaches and ways through, and a sufficient amount of land surrounding and adjacent thereto, as it may determine to enable it to properly prosecute the work, by purchase, donation, or condemnation, in the manner hereinafter set out. If the Department of Transportation acquires by purchase, donation, or condemnation part of a tract of land in fee simple for highway right-of-way as authorized by this section and the Department of Transportation later determines that the property acquired for transportation infrastructure, including highway right-of-way, or a part of that property, is no longer needed

for ~~highway~~ infrastructure right-of-way, then the Department shall give first consideration to any offer to purchase the property made by the former owner. The Department may refuse any offer that is less than the current market value of the property, as determined by the Department. Unless the Department acquired an entire lot, block, or tract of land belonging to the former owner, the former owner must own the remainder of the lot, block, or tract of land from which the property was acquired to receive first consideration by the Department of their offer to purchase the property.

(b) Notwithstanding the provisions of subsection (a), if the Department acquires the property by condemnation and determines that the property or a part of that property is no longer needed for highway ~~right-of-way,~~right-of-way or other transportation projects the Department of Transportation may reconvey the property to the former owner upon payment by the former owner of the full price paid to the owner when the property was taken, the cost of any improvements, together with interest at the legal rate to the date when the decision was made to offer the return of the property. Unless the Department acquired an entire lot, block, or tract of land belonging to the former owner, the former owner must own the remainder of the lot, block, or tract of land from which the property was acquired to purchase the property pursuant to this subsection.

(c) The requirements of this section for reconveying property to the former owner, regardless of whether such property was acquired by purchase, donation, or condemnation, shall not apply to property acquired outside the right-of-way as an "uneconomic remnant" or "residue".

(d) The Department of Transportation is also vested with the power to acquire such additional land alongside of the rights-of-way ~~or~~ for transportation projects, including roads as in its opinion may be necessary and proper for the protection of the transportation projects, including roads and roadways, and such additional area as may be necessary as by it determined for approaches to and from such material and other requisite area as may be desired by it for working purposes. The Department of Transportation may, in its discretion, with the consent of the landowner, acquire in fee simple an entire lot, block or tract of land, if by so doing, the interest of the public will be best served, even though said entire lot, block or tract is not immediately needed for right-of-way purposes.

(e) Notwithstanding any other provisions of law or eminent domain powers of utility companies, utility membership corporations, municipalities, counties, entities created by political subdivisions, or any combination thereof, and in order to prevent undue delay of highway projects because of utility conflicts, the Department of Transportation may condemn or acquire property in fee or appropriate easements necessary to provide ~~highway~~ transportation project rights-of-way for the relocation of utilities when required in the construction, reconstruction, or rehabilitation of a State ~~highway~~ transportation project. The Department of Transportation shall also have the authority, subject to the provisions of G.S. 136-19.5(a) and (b), to, in its discretion, acquire rights-of-way necessary for the present or future placement of utilities as described in G.S. 136-18(2).

(f) Whenever the Department of Transportation and the owner or owners of the lands, materials, and timber required by the Department of Transportation to carry on the work as herein provided for, are unable to agree as to the price thereof, the Department of Transportation is hereby vested with the power to condemn the lands, materials, and timber and in so doing the ways, means, methods, and procedure of Article 9 of this Chapter shall be used by it exclusively.

(g) The Department of Transportation shall have the same authority, under the same provisions of law provided for construction of State ~~highways,~~transportation projects, for acquirement of all rights-of-way and easements necessary to comply with the rules and regulations of the United States government for the construction of federal parkways and entrance roads to federal parks in the State of North Carolina. The acquirement of a total of 125

acres per mile of said parkways, including roadway and recreational, and scenic areas on either side thereof, shall be deemed a reasonable area for said purpose. The right-of-way acquired or appropriated may, at the option of the Department of Transportation, be a fee-simple title. The said Department of Transportation is hereby authorized to convey such title so acquired to the United States government, or its appropriate agency, free and clear of all claims for compensation. All compensation contracted to be paid or legally assessed shall be a valid claim against the Department of Transportation, payable out of the State Highway Fund. Any conveyance to the United States Department of Interior of land acquired as provided by this section shall contain a provision whereby the State of North Carolina shall retain concurrent jurisdiction over the areas conveyed. The Governor is further authorized to grant concurrent jurisdiction to lands already conveyed to the United States Department of Interior for parkways and entrances to parkways.

(h) The action of the Department of Transportation heretofore taken in the acquirement of areas for the Blue Ridge Parkway in accordance with the rules and regulations of the United States government is hereby ratified and approved and declared to be a reasonable exercise of the discretion vested in the said Department of Transportation in furtherance of the public interest.

(i) When areas have been tentatively designated by the United States government to be included within a parkway, but the final survey necessary for the filing of maps as provided in this section has not yet been made, no person shall cut or remove any timber from said areas pending the filing of said maps after receiving notice from the Department of Transportation that such area is under investigation; and any property owner who suffers loss by reason of the restraint upon his right to use the said timber pending such investigation shall be entitled to recover compensation from the Department of Transportation for the temporary appropriation of his property, in the event the same is not finally included within the appropriated area, and the provisions of this section may be enforced under the same law now applicable for the adjustment of compensation in the acquirement of rights-of-way on other property by the Department of Transportation."

SECTION 8. G.S. 136-19.3 reads as rewritten:

"**§ 136-19.3. Acquisition of buildings.**

Where the right-of-way of a proposed highway or other transportation project necessitates the taking of a portion of a building or structure, the Department of Transportation may acquire, by condemnation or purchase, the entire building or structure, together with the right to enter upon the surrounding land for the purpose of removing said building or structure, upon a determination by the Department of Transportation based upon an affidavit of an independent real estate appraiser that the partial taking will substantially destroy the economic value or utility of the building or structure and (i) that an economy in the expenditure of public funds will be promoted thereby; or (ii) that it is not feasible to cut off a portion of the building without destroying the entire building; or (iii) that the convenience, safety or improvement of the ~~highway~~ transportation project will be promoted thereby; provided, nothing herein contained shall be deemed to give the Department of Transportation authority to condemn the underlying fee of the portion of any building or structure which lies outside the right-of-way of any existing or proposed transportation project, including a public road, street or highway."

SECTION 9. G.S. 136-19.5 reads as rewritten:

"**§ 136-19.5. Utility right-of-way agreements.**

(a) Before the Department of Transportation acquires or proposes to acquire additional rights-of-way for the purpose of accommodating the installation of utilities as authorized by G.S. 136-18 and G.S. 136-19, there shall first be voluntary agreements with the appropriate utilities regarding the acquisition and use of the particular right-of-way and requiring the payment to the Department of Transportation for or recapture of all of its costs associated with that acquisition, including the use of funds allocated to such acquisition. Such agreements may

take into account the fact that more than one utility can make use of the right-of-way. No such agreement shall constitute a sale of the right-of-way and all such rights-of-way shall remain under the control of the Department of Transportation.

(b) A prior agreement between the Department of Transportation and the affected utilities may be entered into but is not required when the acquisition of right-of-way is for the purpose of relocation of utilities due to construction, reconstruction, or rehabilitation of a State ~~highway~~ transportation project. The Department of Transportation shall notify the affected utility whose facilities are being relocated and the affected utility may choose not to participate in the proposed plan for right-of-way acquisition. The decision not to participate in the proposed plan of right-of-way acquisition shall not affect any other rights the utility may have as a result of the relocation of its lines or pipelines.

(c) Whenever the Department of Transportation requires the relocation of utilities located in a right-of-way for which the utility owner contributed to the cost of acquisition, the Department of Transportation shall reimburse the utility owner for the cost of moving those utilities.

(d) Any additional right-of-way obtained pursuant to this section which is part of a railroad right-of-way shall be returned to the railroad or its successor in interest when the Department of Transportation and the affected utilities agree that the additional right-of-way is no longer useful for utility purposes and the Department of Transportation determines that it is no longer useful for ~~highway~~ transportation purposes."

SECTION 10. G.S. 136-26 reads as rewritten:

"**§ 136-26. Closing of State ~~highways~~ transportation infrastructure during construction; injury to barriers, warning signs, etc.**

If it shall appear necessary to the Department of Transportation, its officers, or appropriate employees, to close any ~~road or highway~~ transportation infrastructure coming under its jurisdiction so as to permit ~~of~~ proper completion of work which is being performed, ~~such~~ the Department of Transportation, its officers or employees, may close, or cause to be closed, the whole or any portion of ~~such road or highway~~ transportation infrastructure deemed necessary to be excluded from public travel. While any ~~such road or highway,~~ transportation infrastructure, or portion thereof, is so closed, or while any ~~such road or highway,~~transportation infrastructure, or portion thereof, is in process of construction or maintenance, ~~such~~ the Department of Transportation, its officers or appropriate employees, or its contractor, under authority from ~~such~~ the Department of Transportation, may erect, or cause to be erected, suitable barriers or obstruction thereon; may post, or cause to be posted, conspicuous notices to the effect that the ~~road or highway,~~transportation infrastructure, or portion thereof, is closed; and may place warning signs, lights and lanterns on ~~such road or highway,~~transportation infrastructure, or portions thereof. When ~~such road or highway~~ infrastructure is closed to the public or in process of construction or maintenance, as provided herein, any person who willfully drives into new construction work, breaks down, removes, injures or destroys any such barrier or barriers or obstructions on the road closed or being constructed, or tears down, removes or destroys any such notices, or extinguishes, removes, injures or destroys any such warning lights or lanterns so erected, posted or placed, shall be guilty of a Class 1 misdemeanor."

SECTION 11. G.S. 136-27.1 reads as rewritten:

"**§ 136-27.1. Relocation of water and sewer lines of municipalities and nonprofit water or sewer corporations or associations.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of water and sewer lines, located within the existing State ~~highway~~ transportation project right-of-way, that are necessary to be relocated for a State ~~highway~~ transportation improvement project and that are owned by: (i) a municipality with a population of 5,500 or less according to the latest decennial census; (ii) a nonprofit water or sewer association or corporation; (iii) any water or sewer system organized pursuant to Chapter 162A of the General Statutes; (iv) a rural

water system operated by a County as an enterprise system; (v) any sanitary district organized pursuant to Part 2 of Article 2 of Chapter 130A of the General Statutes; or (vi) constructed by a water or sewer system organized pursuant to Chapter 162A of the General Statutes and then sold or transferred to a municipality with a population of greater than 5,500 according to the latest decennial census."

SECTION 12. G.S. 136-27.2 reads as rewritten:

"**§ 136-27.2. Relocation of county-owned natural gas lines located on Department of Transportation right-of-way.**

The Department of Transportation shall pay the nonbetterment cost for the relocation of county-owned natural gas lines, located within the existing State ~~highway~~ transportation project right-of-way, that the Department needs to relocate due to a State ~~highway~~ transportation improvement project."

SECTION 13. G.S. 136-28.2 reads as rewritten:

"**§ 136-28.2. Relocated ~~highways;~~transportation infrastructure; contracts let by others.**

The Department of Transportation is authorized to permit power companies and governmental agencies, including agencies of the federal government, when it is necessary to relocate ~~a public highway~~ transportation infrastructure by reason of the construction of a dam, to let contracts for the construction of the relocated ~~highway.~~transportation infrastructure. The construction shall be in accordance with the Department of Transportation standards and specifications. The Department of Transportation is further authorized to reimburse the power company or governmental agency for betterments arising out of the construction of the relocated ~~highway,~~transportation infrastructure, provided the bidding and the award is in accordance with the Department of Transportation's regulations and the Department of Transportation approves the award of the contract."

SECTION 14. G.S. 136-28.6 reads as rewritten:

"**§ 136-28.6. Participation by the Department of Transportation with private developers.**

(a) The Department of Transportation may participate in private engineering and construction contracts for State ~~highways.~~transportation systems.

(b) In order to qualify for State participation, the project must be:

(1) The construction of a ~~street or highway~~ transportation project on the Transportation Improvement Plan adopted by the Department of Transportation; or

(2) The construction of a ~~street or highway~~ transportation project on a mutually adopted transportation plan that is designated a Department of Transportation responsibility.

(c) Only those projects in which the right-of-way is furnished without cost to the Department of Transportation are eligible.

(d) The Department's participation shall be limited to fifty percent (50%) of the amount of any engineering contract and/or any construction contract let for the project.

(e) Department of Transportation participation in the contracts shall be limited to cost associated with normal practices of the Department of Transportation.

(f) Plans for the project must meet Department of Transportation standards and shall be approved by the Department of Transportation.

(g) Projects shall be constructed in accordance with the plans and specifications approved by the Department of Transportation.

(h) The Secretary shall report in writing, on a quarterly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between a private developer and the Department of Transportation for participation in private engineering and construction contracts under this section.

(i) Counties and municipalities may participate financially in private engineering, land acquisition, and construction contracts for transportation projects ~~pertaining to streets or~~

~~highways~~ which meet the requirements of subsection (b) of this section within their jurisdiction."

SECTION 15. G.S. 136-28.9 reads as rewritten:

"**§ 136-28.9. Retainage – construction contracts.**

Notwithstanding the provisions of G.S. 147-69.1, 147-77, 147-80, 147-86.10, and 147-86.11, or any other provision of the law, the Department of Transportation is authorized to enter into trust agreements with banks and contractors for the deposit of retainage and for the payment to contractors of income on these deposits, in connection with ~~highway~~ transportation construction contracts, in trust accounts with banks in accordance with Department of Transportation regulations, including deposit insurance and collateral requirements. The Department of Transportation may contract with those banks without trust departments in addition to those with trust departments. Funds deposited in any trust account shall be invested only in bonds, securities, certificates of deposits, or other forms of investment authorized by G.S. 147-69.1 for the investment of State funds. The trust agreement may also provide for interest to be paid on uninvested cash balances."

SECTION 16. G.S. 136-29 reads as rewritten:

"**§ 136-29. Adjustment and resolution of ~~highway construction~~ Department of Transportation contract claim.**

(a) A contractor who has completed a contract with the Department of Transportation ~~to construct a State highway~~ let in accordance with Article 2 of this Chapter and who has not received the amount he claims is due under the contract may submit a verified written claim to the ~~State Highway Administrator~~ Secretary of Transportation for the amount the contractor claims is due. The claim shall be submitted within 60 days after the contractor receives his final statement from the Department and shall state the factual basis for the claim.

The ~~State Highway Administrator~~ Secretary or the Secretary's designee shall investigate a submitted claim within 90 days of receiving the claim or within any longer time period agreed to by the ~~State Highway Administrator~~ Secretary or the Secretary's designee and the contractor. The contractor may appear before the ~~State Highway Administrator,~~ Secretary or the Secretary's designee, either in person or through counsel, to present facts and arguments in support of ~~his~~ the claim. The ~~State Highway Administrator~~ Secretary or the Secretary's designee may allow, deny, or compromise the claim, in whole or in part. The ~~State Highway Administrator~~ Secretary or the Secretary's designee shall give the contractor a written statement of the ~~State Highway Administrator's~~ decision on the contractor's claim.

(b) A contractor who is dissatisfied with the ~~State Highway Administrator's~~ Secretary or the Secretary's designee's decision on the contractor's claim may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within 60 days of receiving the ~~State Highway Administrator's~~ written statement of the decision.

(c) As to any portion of a claim that is denied by the ~~State Highway Administrator,~~ Secretary or the Secretary's designee, the contractor may, in lieu of the procedures set forth in subsection (b) of this section, within six months of receipt of the ~~State Highway Administrator's~~ final decision, institute a civil action for the sum he claims to be entitled to under the contract by filing a verified complaint and the issuance of a summons in the Superior Court of Wake County or in the superior court of any county where the work under the contract was performed. The procedure shall be the same as in all civil actions except that all issues shall be tried by the judge, without a jury.

(d) The provisions of this section shall be part of every contract ~~for State highway construction~~ let in accordance with Article 2 of this Chapter between the Department of Transportation and a contractor. A provision in a contract that conflicts with this section is invalid."

SECTION 17. G.S. 136-35 reads as rewritten:

"**§ 136-35. Cooperation with other states and federal government.**

It shall also be the duty of the Department of Transportation, where possible, to cooperate with the state highway commissions of other states and with the federal government in the correlation of roads and other transportation systems so as to form a system of intercounty, interstate, and national ~~highways.~~highways and transportation systems. The Department of Transportation may enter into reciprocal agreements with other states and the ~~Federal Highway Administration~~ United States Department of Transportation to perform inspection work and to pay reasonable fees for inspection work performed by others in connection with supplies and materials used in ~~highway~~ transportation construction and repair."

SECTION 18. The title of Article 2A of Chapter 136 of the General Statutes and G.S. 136-44.1 read as rewritten:

"Article 2A.

State ~~Roads~~ Transportation Generally.

"**§ 136-44.1. Statewide ~~road~~ transportation system; policies.**

The Department of Transportation shall develop and maintain a statewide system of ~~roads and highways~~ roads, highways, and other transportation systems commensurate with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board of Transportation shall formulate general policies and plans for a statewide ~~system of highways.~~transportation system. The Board shall formulate policies governing the construction, improvement and maintenance of ~~roads and highways~~ roads, highways, and other transportation systems of the State with due regard to farm-to-market roads and school bus routes."

SECTION 19. G.S. 136-44.2 reads as rewritten:

"**§ 136-44.2. Budget and appropriations.**

The Director of the Budget shall include in the "Current Operations Appropriations Bill" an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, ~~and~~ State parks road ~~systems.~~systems, and other transportation systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system. The transportation systems shall include State-maintained, nonhighway modes of transportation as well.

All construction and maintenance programs for which appropriations are requested shall be enumerated separately in the budget. Programs that are entirely State funded shall be listed separately from those programs involving the use of federal-aid funds. Proposed appropriations of State matching funds for each of the federal-aid construction programs shall be enumerated separately as well as the federal-aid funds anticipated for each program in order that the total construction requirements for each program may be provided for in the budget. Also, proposed State matching funds for the highway planning and research program shall be included separately along with the anticipated federal-aid funds for that purpose.

Other program categories for which appropriations are requested, such as, but not limited to, maintenance, channelization and traffic control, bridge maintenance, public service and access road construction, transportation projects and systems, and ferry operations shall be enumerated in the budget.

The Department of Transportation shall have all powers necessary to comply fully with provisions of present and future federal-aid acts. No federally eligible construction project may be funded entirely with State funds unless the Department of Transportation has first reported to the Joint Legislative Commission on Governmental Operations. For purposes of this section,

"federally eligible construction project" means any construction project except secondary road projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any federal-aid act, whether or not federal funds are actually available.

The "Current Operations Appropriations Bill" shall also contain the proposed appropriations of State funds for use in each county for maintenance and construction of secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds appropriated for secondary roads shall not be transferred nor used except for the construction and maintenance of secondary roads in the county for which they are allocated pursuant to G.S. 136-44.5 and 136-44.6.

If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is greater than the amount estimated for that date in the Current Operations Appropriations Act for the following fiscal year, the excess shall be used in accordance with this paragraph. The Director of the Budget may allocate part or all of the excess among reserves for access and public roads, for unforeseen events requiring prompt action, or for other urgent needs. The amount not allocated to any of these reserves by the Director of the Budget shall be credited to a reserve for maintenance. The Board of Transportation shall report monthly to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of funds in the maintenance reserve.

The Department of Transportation may provide for costs incurred or accrued for traffic control measures to be taken by the Department at major events which involve a high degree of traffic concentration on State highways, and which cannot be funded from regular budgeted items. This authorization applies only to events which are expected to generate 30,000 vehicles or more per day. The Department of Transportation shall provide for this funding by allocating and reserving up to one hundred thousand dollars ($100,000) before any other allocations from the appropriations for State maintenance for primary, secondary, and urban road systems are made, based upon the same proportion as is appropriated to each system."

SECTION 20. G.S. 136-44.2C reads as rewritten:

"**§ 136-44.2C. Special appropriations for State construction.**

Special appropriations for the construction of State highways may be used for the planning, design, right-of-way acquisition, and construction of ~~highway~~ transportation projects for the State ~~Highway~~ Transportation System and Federal Aid System, including secondary roads, contained in the Transportation Improvement Program prepared pursuant to G.S. 143B-350(f)(4). Funding from the special appropriations used for secondary road projects in the Transportation Improvement Program is not subject to the allocation formula and restrictions of G.S. 136-44.2, 136-44.2A, or 136-44.5."

SECTION 21. G.S. 136-44.4 reads as rewritten:

"**§ 136-44.4. Annual construction program; State primary and urban systems.**

The Department of Transportation shall develop an annual construction program for the state-funded improvements on the primary and urban system highways and for all other federal-aid construction programs which shall be approved by the Board of Transportation. It shall include a statement of the immediate and long-range goals. The Department shall develop criteria for determining priorities of projects to insure that the long-range goals and the statewide needs as a whole are met, which shall be approved by the Board of Transportation. The annual construction program shall list all projects according to priority. A brief description of each project shall be given, identifying the highway number, county, nature of the improvement and the estimated cost of the project shall be indicated. Other transportation systems shall be similarly identified. Copies of the most recent annual work program shall be made available to any member of the General Assembly upon request. The Department of Transportation shall make annual reports after the completion of the fiscal year to be made available to the legislative committees and subcommittees for highway matters, county

commissioners, and other persons upon request. These reports shall indicate the expenditure on each of the projects and the status of all projects set out in the work program."

SECTION 22. The title of Article 3A of Chapter 136 of the General Statutes reads as rewritten:

"Article 3A.

~~Streets and Highways~~ Transportation Systems in and around Municipalities."

SECTION 23. G.S. 136-66.3 reads as rewritten:

"**§ 136-66.3. Local government participation in improvements to the State highway system.**

(a) Municipal Participation Authorized. – A municipality may, but is not required to, participate in the right-of-way and construction cost of a State ~~highway~~ transportation improvement approved by the Board of Transportation under G.S. 143B-350(f)(4) that is located in the municipality or its extraterritorial jurisdiction.

(b) Process for Initiating Participation. – A municipality interested in participating in the funding of a State highway improvement project may submit a proposal to the Department of Transportation. The Department and the municipality shall include their respective responsibilities for a proposed municipal participation project in any agreement reached concerning participation.

(c) Type of Participation Authorized. – A municipality is authorized and empowered to acquire land by dedication and acceptance, purchase, or eminent domain, and make improvements to portions of the State ~~highway~~ transportation system lying within or outside the municipal corporate limits utilizing local funds that have been authorized for that purpose. All improvements to ~~the~~ State ~~highway system~~ transportation systems shall be done in accordance with the specifications and requirements of the Department of Transportation.

(c1) No TIP Disadvantage for Participation. – If a county or municipality participates in a State ~~highway~~ transportation system improvement project, as authorized by this section, or by G.S. 136-51 and G.S. 136-98, the Department shall ensure that the local government's participation does not cause any disadvantage to any other project in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(c2) Distribution of State Funds Made Available by County or Municipal Participation. – Any State or federal funds allocated to a project that are made available by county or municipal participation in a project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4) shall remain in the same funding region that the funding was allocated to under the distribution formula contained in G.S. 136-17.2A.

(c3) Limitation on Agreements. – The Department shall not enter into any agreement with a county or municipality to provide additional total funding for highway construction in the county or municipality in exchange for county or municipal participation in any project contained in the Transportation Improvement Program under G.S. 143B-350(f)(4).

(d) Authorization to Participate in Development-Related Improvements. – When in the review and approval by a local government of plans for the development of property abutting ~~the~~ a State ~~highway~~ transportation system it is determined by the municipality that improvements to the State highway system are necessary to provide for the safe and orderly movement of traffic, the local government is authorized to construct, or have constructed, said improvements to the State ~~highway~~ transportation system in vicinity of the development. For purposes of this section, improvements include but are not limited to additional travel lanes, turn lanes, curb and gutter, ~~and~~ drainage ~~facilities.~~facilities, and other transportation system improvements. All improvements to ~~the~~ a State ~~highway~~ transportation system shall be constructed in accordance with the specifications and requirements of the Department of Transportation and be approved by the Department of Transportation.

(e) Authorization to Participate in Project Additions. – Pursuant to an agreement with the Department of Transportation, a county or municipality may reimburse the Department of

Transportation for the cost of all improvements, including additional right-of-way, for a ~~street or~~ street, highway improvement ~~projects~~ projects, or other transportation system improvements approved by the Board of Transportation under G.S. 143B-350(f)(4), that are in addition to those improvements that the Department of Transportation would normally include in the project.

(e1) Reimbursement Procedure. – Upon request of the county or municipality, the Department of Transportation shall allow the local government a period of not less than three years from the date construction of the project is initiated to reimburse the Department their agreed upon share of the costs necessary for the project. The Department of Transportation shall not charge a local government any interest during the initial three years.

(f) Report to General Assembly. – The Department shall report in writing, on a monthly basis, to the Joint Legislative Commission on Governmental Operations on all agreements entered into between counties, municipalities and the Department of Transportation. The report shall state in summary form the contents of such agreements.

(g) Local Government Acquisition of Rights-of-Way. – In the acquisition of rights-of-way for any State ~~highway system street or~~ street, highway, or other transportation project, the county or municipality shall be vested with the same authority to acquire such rights-of-way as is granted to the Department of Transportation in this Chapter. In the acquisition of such rights-of-way, counties and municipalities may use the procedures provided in Article 9 of this Chapter, and wherever the words "Department of Transportation" appear in Article 9 they shall be deemed to include "county," "municipality" or local governing body, and wherever the words "Administrator," "Administrator of Highways," "Administrator of the Department of Transportation," or "Chairman of the Department of Transportation" appear in Article 9 they shall be deemed to include "county or municipal clerk". It is the intention of this subsection that the powers herein granted to municipalities for the purpose of acquiring rights-of-way shall be in addition to and supplementary to those powers granted in any local act or in any other general statute, and in any case in which the provisions of this subsection or Article 9 of this Chapter are in conflict with the provisions of any local act or any other provision of any general statute, then the governing body of the county or municipality may in its discretion proceed in accordance with the provisions of such local act or other general statute, or, as an alternative method of procedure, in accordance with the provisions of this subsection and Article 9 of this Chapter.

(h) Department Authority Concerning Rights-of-Way. – In the absence of an agreement, the Department of Transportation shall retain authority to pay the full cost of acquiring rights-of-way where the proposed project is deemed important to a coordinated State ~~highway~~ transportation system.

(i) Changes to Local Government Participation Agreement. – Either the local government or the Department of Transportation may at any time propose changes in the agreement setting forth their respective responsibilities by giving notice to the other party, but no change shall be effective until it is adopted by both the municipal governing body and the Department of Transportation.

(j) Local Governments Party to Rights-of-Way Proceeding. – Any municipality that agrees to contribute any part of the cost of acquiring rights-of-way for any State ~~highway system street or highway~~ transportation system shall be a proper party in any proceeding in court relating to the acquisition of such rights-of-way.

(k) Repealed by Session Laws 2008-180, s. 6, effective August 4, 2008."

SECTION 24. G.S. 136-66.5 reads as rewritten:

"**§ 136-66.5. Improvements in urban ~~area streets~~ areas to reduce traffic congestion.**

(a) The Department of Transportation is authorized to enter into contracts with municipalities for ~~highway~~ improvement projects which are a part of an overall plan authorized under the provisions of section 135 of Title 23 of the United States Code, the purpose of which

is to facilitate the flow of ~~traffic~~ people and goods in urban areas. In connection with these contracts, the Department of Transportation and the municipalities are authorized to enter into contracts for improvement projects on the municipal system of streets, and pursuant to contract with the municipalities, the Department of Transportation is authorized to construct or to let to contract the said improvement projects on streets on the municipal street system or other transportation system; provided that no portion of the cost of the improvements made on the municipal ~~street~~ system shall be paid from Department of Transportation funds except the proportionate share of funds received from the ~~Federal Highway Administration~~ United States Department of Transportation and allocated for the purposes set out in section 135 of Title 23 of the United States Code. Pursuant to contract with the Department of Transportation, the municipalities may construct or let to contract the said improvement projects on the municipal ~~street~~ system and the Department of Transportation is authorized to pay over to the municipalities the proportionate share of funds received pursuant to section 135 of Title 23 of the United States Code; provided that no portion of the costs of the improvements made on the municipal ~~street~~ system shall be paid for from the State Highway Fund except those received from the ~~Federal Highway Administration~~ United States Department of Transportation and allocated for the purpose set out in section 135 of Title 23 of the United States Code.

(b) The municipalities are authorized to enter into contracts with the Department of Transportation for improvement projects which are a part of an overall plan authorized under the provisions of section 135 of Title 23 of the United States Code, the purpose of which is to facilitate the flow of traffic in urban areas, on the State highway system streets within the municipalities with the approval of the ~~Federal Highway Administration.~~ United States Department of Transportation. Pursuant to contract for the foregoing improvement projects, the municipalities are authorized to construct or let to contract the said improvement projects and the Department of Transportation is authorized to reimburse the municipalities for the cost of the construction of the said improvement projects.

(c) The municipalities in which improvements are made pursuant to section 135 of Title 23 of the United States Code shall provide proper maintenance and operation of such completed projects and improvements on the municipal system streets and other transportation infrastructure or will provide other means for assuring proper maintenance and operation as is required by the Department of Transportation. In the event the municipality fails to maintain such project or provide for their proper maintenance, the Department of Transportation is authorized to maintain the said projects and improvements and deduct the cost from allocations to the municipalities made under the provisions of G.S. 136-41.1."

SECTION 25. G.S. 136-102.2 reads as rewritten:

"**§ 136-102.2. Authorization required for test drilling or boring upon right-of-way; filing record of results with Department of Transportation.**

No person, firm or corporation shall make any test drilling or boring upon the right-of-way of any ~~road or highway;~~ transportation system, under the jurisdiction of the Department of Transportation, until written authorization has been obtained from the owner or the person in charge of the land on which the highway easement is located. A complete record showing the results of the test drilling or boring shall be filed forthwith with the chairman [Secretary] of the Department of Transportation and shall be a public record. This section shall not apply to the Department of Transportation making test drilling or boring for highway purposes only."

SECTION 26. G.S. 136-103.1 reads as rewritten:

"**§ 136-103.1. Outside counsel.**

The Attorney General is authorized to employ outside counsel as he deems necessary for the purpose of obtaining title abstracts and title certificates for ~~highway~~ transportation system rights-of-way and for assistance in the trial of condemnation cases involving the acquisition of rights-of-way and other interests in land for the purpose of ~~highway~~ transportation construction.

Compensation, as approved by the Attorney General, shall be paid out of the appropriations from the Highway Fund."

SECTION 27. G.S. 136-177 reads as rewritten:

"**§ 136-177. Limitation on funds obligated from Trust Fund.**

In a fiscal year, the Department of Transportation may not obligate more Trust Fund revenue, other than revenue allocated for city streets under G.S. 136-176(b)(3) or secondary roads under G.S. 136-176(b)(4) and G.S. 20-85(b), to construct or improve highways and other forms of transportation than the amount indicated in the following table:

Fiscal Year	Maximum Expenditure
1989-90	$200,000,000
1990-91	250,000,000
1991-92	300,000,000
1992-93	400,000,000
1993-94	500,000,000
1994-95 and following years	Unlimited

The amount of revenue credited to the Trust Fund in a fiscal year under G.S. 136-176(a) that exceeds the maximum allowable expenditure set in the table above may be used only for preliminary planning and design and the acquisition of rights-of-way for scheduled highways and highway improvements to be funded from the Trust Fund."

SECTION 28. This act becomes effective July 1, 2009.

HOUSE BILL 780

Committee Substitute Favorable 4/16/09
Senate Commerce Committee Substitute Adopted 6/15/09

Short Title: Building Code/Exempt Equestrian Arenas. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE NORTH CAROLINA BUILDING CODE EXEMPTION FOR FARM BUILDINGS TO INCLUDE EQUINE ARENAS USED FOR LESSONS OFFERED TO THE GENERAL PUBLIC, AND OTHER EQUINE ACTIVITIES, BUT NOT FOR SPECTATOR EVENTS, AND TO PROVIDE THAT IN THE CASE OF A MANDATORY EVACUATION A TENANT SUBJECT TO A VACATION RENTAL AGREEMENT IS ENTITLED TO A REFUND OF THE PRORATED RENT, TAXES, AND OTHER PAYMENTS MADE BY THE TENANT FOR THE OCCUPATION OF THE VACATION RENTAL UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-138(b) reads as rewritten:

"**§ 143-138. North Carolina State Building Code.**

...

(b) Contents of the Code. – The North Carolina State Building Code, as adopted by the Building Code Council, may include reasonable and suitable classifications of buildings and structures, both as to use and occupancy; general building restrictions as to location, height, and floor areas; rules for the lighting and ventilation of buildings and structures; requirements concerning means of egress from buildings and structures; requirements concerning means of ingress in buildings and structures; rules governing construction and precautions to be taken during construction; rules as to permissible materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of temperature, and electrical systems; and such other reasonable rules pertaining to the construction of buildings and structures and the installation of particular facilities therein as may be found reasonably necessary for the protection of the occupants of the building or structure, its neighbors, and members of the public at large.

(b1) ~~In addition, the~~The Code may regulate activities and conditions in buildings, structures, and premises that pose dangers of fire, explosion, or related hazards. Such fire prevention code provisions shall be considered the minimum standards necessary to preserve and protect public health and safety, subject to approval by the Council of more stringent provisions proposed by a municipality or county as provided in G.S. 143-138(e). These provisions may include regulations requiring the installation of either battery-operated or electrical smoke detectors in every dwelling unit used as rental property, regardless of the date of construction of the rental property. For dwelling units used as rental property constructed prior to 1975, smoke detectors shall have an Underwriters' Laboratories, Inc., listing or other equivalent national testing laboratory approval, and shall be installed in accordance with either

the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance.

(b2) The Code may contain provisions requiring the installation of either battery-operated or electrical carbon monoxide detectors in every dwelling unit having a fossil-fuel burning heater or appliance, fireplace, or an attached garage. Carbon monoxide detectors shall be those listed by a nationally recognized testing laboratory that is OSHA-approved to test and certify to American National Standards Institute/Underwriters Laboratories Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in accordance with either the standard of the National Fire Protection Association or the minimum protection designated in the manufacturer's instructions, which the property owner shall retain or provide as proof of compliance. A carbon monoxide detector may be combined with smoke detectors if the combined detector does both of the following: (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a manner that clearly differentiates between detecting the presence of carbon monoxide and the presence of smoke.

(b3) The Code may contain provisions regulating every type of building or structure, wherever it might be situated in the State.

(b4) ~~Provided further, that building~~ Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, or (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses. For the purposes of this subsection:

(1) A "farm building" shall include any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall not be exempt if it is used for a spectator event and more than 10 members of the public are present at the farm building for the event.

(2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more glass or plastic walls, has an area over ninety-five percent (95%) of which is used to grow or cultivate plants, is built in accordance with the National Greenhouse Manufacturers Association Structural Design manual, and is not used for retail sales. Additional provisions addressing distinct life safety hazards shall be approved by the local building-rules jurisdiction.

(b5) ~~Provided further, that no~~No building permit shall be required under the Code or any local variance thereof approved under subsection (e) for any construction, installation, repair, replacement, or alteration costing five thousand dollars ($5,000) or less in any single family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment, the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing.

(b6) ~~Provided further, that no~~No building permit shall be required under such Code from any State agency for the construction of any building or structure, the total cost of which is less than twenty thousand dollars ($20,000), except public or institutional buildings.

For the information of users thereof, the Code shall include as appendices [the following:]

(1) Any rules governing boilers adopted by the Board of Boiler and Pressure Vessels Rules,

(2) Any rules relating to the safe operation of elevators adopted by the Commissioner of Labor, and

(3) Any rules relating to sanitation adopted by the Commission for Public Health which the Building Code Council believes pertinent.

(b7) ~~In addition, the~~ The Code may include references to such other rules of special types, such as those of the Medical Care Commission and the Department of Public Instruction as may be useful to persons using the Code. No rule issued by any agency other than the Building Code Council shall be construed as a part of the Code, nor supersede that Code, it being intended that they be presented with the Code for information only.

(b8) Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of (1) equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers, except for liquefied petroleum gas from the outlet of the first stage pressure regulator to and including each liquefied petroleum gas utilization device within a building or structure covered by the Code, or (2) equipment or facilities, other than buildings, of a public utility, as defined in G.S. 62-3, or an electric or telephone membership corporation, including without limitation poles, towers, and other structures supporting electric or communication lines.

(b9) Nothing in this Article shall extend to or be construed as being applicable to the regulation of the design, construction, location, installation, or operation of industrial machinery. However, if during the building code inspection process, an electrical inspector has any concerns about the electrical safety of a piece of industrial machinery, the electrical inspector may refer that concern to the Occupational Safety and Health Division in the North Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate third-party testing of the industrial machinery based solely on this concern. For the purposes of this paragraph, "industrial machinery" means equipment and machinery used in a system of operations for the explicit purpose of producing a product. The term does not include equipment that is permanently attached to or a component part of a building and related to general building services such as ventilation, heating and cooling, plumbing, fire suppression or prevention, and general electrical transmission.

(b10) ~~In addition, the~~The Code may contain rules concerning minimum efficiency requirements for replacement water heaters, which shall consider reasonable availability from manufacturers to meet installation space requirements and may contain rules concerning energy efficiency that require all hot water plumbing pipes that are larger than one-fourth of an inch to be insulated.

(b11) No State, county, or local building code or regulation shall prohibit the use of special locking mechanisms for seclusion rooms in the public schools approved under G.S. 115C-391.1(e)(1)e., provided that the special locking mechanism shall be constructed so that it will engage only when a key, knob, handle, button, or other similar device is being held in position by a person, and provided further that, if the mechanism is electrically or electronically controlled, it automatically disengages when the building's fire alarm is activated. Upon release of the locking mechanism by a supervising adult, the door must be able to be opened readily."

SECTION 2. G.S. 42A-36 reads as rewritten:

"**§ 42A-36. Mandatory evacuations.**

If State or local authorities, acting pursuant to Article 36A of Chapter 14 or Article 1 of Chapter 166A of the General Statutes, order a mandatory evacuation of an area that includes the residential property subject to a vacation rental, the tenant under the vacation rental agreement, whether in possession of the property or not, shall comply with the evacuation order. Upon compliance, the tenant shall be entitled to a refund from the landlord of the ~~prorated rent~~ rent, taxes, and any other payments made by the tenant pursuant to the vacation rental agreement as a condition of the tenant's right to occupy the property prorated for each night that the tenant is unable to occupy the property because of the mandatory evacuation order. The tenant shall not be entitled to a refund if: (i) prior to the tenant taking possession of the property, the tenant refused insurance offered by the landlord or real estate broker that would have compensated the tenant for losses or damages resulting from loss of use of the property due to a mandatory evacuation order; or (ii) the tenant purchased insurance offered by the landlord or real estate broker. The insurance offered shall be provided by an insurance company duly authorized by the North Carolina Department of Insurance, and the cost of the insurance shall not exceed eight percent (8%) of the total ~~rent~~ amount charged for the vacation rental to the ~~tenant.~~tenant less the amount paid by the tenant for a security deposit."

SECTION 3. This act is effective when it becomes law. Section 1 of this act applies to all farm buildings, including farm buildings where construction either began or was completed prior to the effective date of this act.

HOUSE BILL 780:
Building Code/Exempt Equestrian Arenas

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	June 23, 2009
Introduced by:	Rep. Brubaker	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	Third Edition		Committee Counsel

SUMMARY: ***House Bill 780 would amend the State Building Code to clarify that the term "farm buildings" includes structures that are used for equine activities, and are exempt from the building rules if located outside of a municipality.***

Section 2 provides that if a mandatory evacuation of an area is ordered by State or local authorities, the tenant of a vacation rental is entitled to a prorated refund from the landlord not just of rent, but also of taxes and any other payments made by the tenant pursuant to the vacation rental agreement.

The bill also makes changes to the current law governing the cost of insurance offered by a landlord to insure the tenant against loss resulting from an evacuation.

CURRENT LAW: Farm buildings that are outside the building-rules jurisdiction of a municipality are excluded from the State Building Code. A "greenhouse" is the only type of "farm building" inside a building-rules jurisdiction that is exempt from the building-rules jurisdiction of a municipality.

ith regard to the mandatory evacuation of vacation rental properties, current law provides that a tenant entitled to a refund of prorated rent. The tenant is not entitled to a refund if the tenant refused insurance offered by the landlord for losses resulting from loss of use of the property due to evacuation or if the tenant purchased insurance offered by the landlord. The cost of the insurance may not exceed 8% of the total rent.

BILL ANALYSIS: This act provides that buildings or structures associated with equine activities are "farm buildings" for purposes of compliance with building rules. Equine activities include the care, management, boarding, or training of horses, or instruction and training of riders. Any building or structure associated with equine activities, including those used to store equipment or food, are included. However, a farm building outside a municipality's building rules jurisdiction that is used for equine activities loses its exempt status if it is used for spectator events, and more than 10 people are present.

Section 2 amends G.S. 42A-34 to provide that if a mandatory evacuation of an area is ordered by State or local authorities, the tenant of a vacation rental is entitled to a prorated refund from the landlord not just of rent, but also of taxes and any other payments made by the tenant pursuant to the vacation rental agreement.

The bill also provides that any insurance offered by the landlord insuring the tenant against loss of use resulting from an evacuation may not exceed 8% of the total amount charged for the rental less the amount paid for a security deposit (currently may not exceed total rent).

EFFECTIVE DATE: This act is effective when it becomes law.

im Hovis, Staff Attorney, substantially contributed to this summary.

... 80-SMRO-130(e3) v1

VISITOR REGISTRATION SHEET

State Govt/State Personnel — 6/22/09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Anthony Roper	NC Dept of Transportation
Bobby Keith	American Heart Assn
Tommy Griffin	School of Gov.
Eddie Caldwell	NC Sheriffs' Assn.
Gerry Cohen	Bill Drafting
Rich O'Brien	PFFPNC
David Anders	PFFPNC
Donald Ragavage	PFFPNC
Christy Agan	DOL
Rick Zechini	NC Assoc of RCA Mfrs
Cody Thomas	

VISITOR REGISTRATION SHEET

State Govt/State Personnel — 6/22/09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Geo Hall	NCGA
Meredith Cook	NCDOL
Bruce Thompson	Parker Poe
David Starling	NCDST
Colleen Kachurek	NCACP
Johanna Reese	DOT
Alicia Davis	MWC
Jim Blackburn	NC Association of County Commissioners
Jon Nance	NCDOT

Minutes
House Committee on State Government/State Personnel
Tuesday, June 30, 2009

The House Committee on State Government/State Personnel met on Tuesday, June 30, 2009, at 2:00 PM in Room 424 of the Legislative Office Building.

In addition to Chairman Wilkins, the following members were present: Representatives Harrell, Jackson and Mobley, Vice Chairs; and Representatives Gill, Justus, Killian, Randleman, Sager, Wiley and Womble. Also present were staff attorneys Theresa Matula, Karen Cochrane-Brown and Shirley Iorio; Sergeant-at-Arms staff Fred Hines, Toussaint Avent and Jerald Perry; and committee clerk Nancy Brantley.

Chairman Wilkins also recognized Pages Tayloe Hill from Pitt County, sponsored by Representative Holliman; Steven Sauer of Guilford County, sponsored by Representative Blust; Meredith Abernethy of Forsyth County, sponsored by Representative Brown; Ellen Williams of Pitt Countil, sponsored by Representative McLawhorn; and Angela Vogier from Forsyth County, sponsored by Representative Folwell.

Senator Clodfelter was called on to explain **Senate Bill 388, COLLECTION OF OFFENDER FINES AND FEES**. Following discussion, Representative Jackson moved for a favorable report and recommendation that the bill be re-referred to the Committee on Finance. The motion carried.

Representative Womble was recognized to explain Representative Hall's **House Bill 1633, Upgrade Security Services-Government Complex**. Upon motion of Representative Justus, the proposed committee substitute (PCS) was adopted for discussion. Representative Womble explained that the PCS would establish a Joint Legislative Study Committee on Security and Emergency Medical Services at the State Legislative Buildings and grounds. He said Representative Hall was agreeable to this change in the bill. Following discussion, Representative Wiley moved for a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Appropriations. The motion carried.

Chairman Wilkins recognized Senator Forrester to explain his bill, **Senate Bill 36, Expand Chem. Analysis Sites/Contr. Substance**. Following discussion, Vice Chair Jackson made a motion that the bill receive a favorable report and recommendation that it be re-referred to the Committee on Judiciary III. The motion was adopted.

Senator McKissick was asked to explain his bill, **Senate Bill 986, Clarify Local Special Separation Allowance.** Representative Womble made a motion that the proposed committee substitute (PCS) be adopted for discussion. The motion passed. Stanley Moore of Fiscal Research explained the differences between the original bill and the PCS. John Midgett, Executive Director of the Police Benevolent Association, spoke

favorably about the bill. Representative Womble then moved for a favorable report as to the House committee substitute bill, unfavorable as to the Senate Committee Substitute Bill, with a recommendation that the House PCS be referred to the Committee on Pensions and Retirement. The motion carried.

Chairman Wilkins adjourned the meeting at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

SB 388 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE COLLECTION OF OFFENDER FINES AND FEES.

☒ 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1633 A BILL TO BE ENTITLED AN ACT TO REQUIRE UPGRADED SECURITY AND EMERGENCY MEDICAL SERVICES AT THE STATE LEGISLATURE, STATE GOVERNMENT COMPLEX, THE EXECUTIVE MANSION, AND THE LIEUTENANT GOVERNOR'S MANSION AND TO PROVIDE FUNDING FOR THE UPGRADED SECURITY SERVICES.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on APPROPRIATIONS.

(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.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for
SB 36 A BILL TO BE ENTITLED AN ACT TO DESIGNATE THE IREDELL COUNTY CRIME LABORATORY AS AN ADDITIONAL CONTROLLED SUBSTANCE CHEMICAL ANALYSIS SITE.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY III.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Senate Committee Substitute for

SB 986 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE LAW REGARDING THE SPECIAL SEPARATION ALLOWANCE PROVIDED TO LAW ENFORCEMENT OFFICERS UNDER THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

☒ With a favorable report as to the House committee substitute bill, unfavorable as to Senate Committee Substitute Bill and recommendation that the House committee substitute bill be re-referred to the Committee on PENSIONS AND RETIREMENT.

(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.

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NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, June 30, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

HB 1633	**Upgrade Security Services-Government Complex. Representative Hall**
SB 36	**Expand Chem. Analysis Sites/Contr. Substance. Senator Forrester**
SB 388	**Collection of Offender Fines and Fees. Senator Clodfelter**
SB 986	**Clarify Local Special Separation Allowance. Senator McKissick**

II. Discussion

III. Adjourn

SENATE BILL 388
Finance Committee Substitute Adopted 5/12/09

Short Title: Collection of Offender Fines and Fees. (Public)

Sponsors:

Referred to:

March 4, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE COLLECTION OF OFFENDER FINES AND FEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-321 reads as rewritten:

"**§ 7A-321. Collection of offender fines and fees assessed by the court.**

(a) Methods of Payment. – The Judicial Department may, in lieu of payment by cash or check, accept payment by credit card, charge card, or debit card for the fines, fees, and costs owed to the courts by offenders.

(b) Contract to Collect Past Due Amounts. – ~~In attempting to collect the fines, fees, and costs owed by offenders not sentenced to supervised probation, the Department may:~~The Department may contract with a county or a collection agency to collect unpaid fines, fees, costs, and restitution owed by offenders not sentenced to supervised probation if the amounts remain unpaid 30 days after the time allotted by the court. The Department may assess the offender a collection assistance fee equal to the amount charged by the county or collection agency to collect the amounts past due. The collection assistance fee may not exceed twenty percent (20%) of the amount past due. If the Department assesses a collection assistance fee under this subsection, it may not charge an additional cost of collection pursuant to G.S. 115C-437.

~~(1) Assess a collection assistance fee if an amount due remains unpaid for 30 days after the time period allotted by the court. The amount of the collection assistance fee shall not exceed the average cost of collecting the debt or twenty percent (20%) of the amount past due, whichever is less.~~

~~(2) Enter into contracts with a collection agency or agencies to collect unpaid fines, fees, and costs owed by offenders not sentenced to supervised probation.~~

~~(3) Intercept tax refund checks under Chapter 105A of the General Statutes, the Setoff Debt Collection Act.~~

~~(c) Should the Judicial Department use any method listed in subdivision (b)(1) or (2) of this section to collect fines, fees, and costs owed by offenders not sentenced to supervised probation, the department may not charge any additional cost of collection pursuant to G.S. 115C-437.~~"

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

SENATE BILL 388:
Collection of Offender Fines and Fees

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Finance	**Date:**	June 29, 2009
Introduced by:	Sen. Clodfelter	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 388 amends the law pertaining to the collection of offender fines and fees assessed by the court to allow the Judicial Department to contract with a county or collection agency to collect past due fines, fees, costs, and restitution owed by offenders not sentenced to supervised probation, and to assess a fee equal to the costs incurred.***

CURRENT LAW:

S.L. 2006-187 enacted G.S. 7A-321 to allow fines, fees and court costs to be paid by credit card, charge card, or debit card.

In an effort to collect fines, fees, and costs owed by offenders not sentenced to supervised probation, **S.L. 2007-323**, Section 30.9, amended G.S. 7A-321 to establish subsection (b) allowing the Judicial Department:

- To assess a collection assistance fee (the lesser of the average cost of collecting the debt or 20% of the past due amount) if an amount due remains unpaid for 30 days after the time period allotted by the court; and
- To enter into contracts with a collection agency or agencies to collect unpaid fines, fees, and costs owed by offenders not sentenced to supervised probation.

In the above methods, the Department is not allowed to charge an additional cost of collection pursuant to G.S. 115C-437, which pertains to the remitting of funds to local school administrative units.

The subsection states that the Department is allowed to intercept tax refund checks under the Setoff Debt Collection Act, which is included in Chapter 105A and governs the interception of tax refund checks.

BILL ANALYSIS:

Senate Bill 388 adds the "Methods of Payment" description to the current language in G.S. 7A-321(a) which specifies the methods of payment that can be accepted by the Judicial Department.

The bill also adds the "Contract to Collect Past Due Amounts" description to G.S. 7A-321(b) and extends the current law to include not only the collection of fines, fees, and costs, but also the collection of restitution. The bill further amends this subsection to clarify that the Department may contract with a county or with a collection agency to collect amounts owed by offenders not sentenced to supervised probation if the amounts remain unpaid 30 days after the time allotted by the court. The Department is allowed to assess a collection assistance fee equal to the amount charged by the county or collection agency to collect the amounts due. The collection assistance fee may not exceed 20% of the amount past due.

EFFECTIVE DATE: Senate Bill 388 would become effective when it becomes law.

**Cindy Avrette, staff to Senate Finance, contributed to this summary*

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 388 (Second Edition)

SHORT TITLE: Collection of Offender Fines and Fees.

SPONSOR(S): Senator Clodfelter

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
REVENUES:	**No fiscal impact anticipated**				
EXPENDITURES:					

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Branch

EFFECTIVE DATE: July 1, 2009

BILL SUMMARY:
Current law allows the Judicial Department (Department) in its efforts to collect the fines, fees, and costs owed by offenders who are not sentenced to supervised probation to assess a collection assistance fee if the amount owed by an offender remains unpaid for 30 days after the time allotted by the court for payment to be made. This bill would rearrange the existing statute (G.S. 7A-321(b)), specify that the Department may also contract with a county for collection assistance, and remove the redundant reference to Chapter 105A. This bill is effective when it becomes law.

ASSUMPTIONS AND METHODOLOGY:

Administrative Office of the Courts

This bill would not significantly alter the Administrative Office of the Courts' (AOC) existing options for collecting amounts due from offenders not sentenced to supervised probation. While the new language specifies that AOC may contact with a county, it is likely that the term collection agency could be applied to an entity such as a county acting to collect monies owed. The authority to intercept tax refunds under 7A-321 – which merely referenced the authority granted in Chapter 105A – has been stricken in this version of the bill, but AOC will continue to have the authority under Chapter 105A itself.

SOURCES OF DATA: Administrative Office of the Courts

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Danielle Seale, Denise Thomas

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: May 13, 2009



Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1633
PROPOSED COMMITTEE SUBSTITUTE H1633-PCS80480-SF-41

Short Title: Study Security Services-Legislative Bldgs. (Public)

Sponsors:

Referred to:

May 7, 2009

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE JOINT LEGISLATIVE STUDY COMMITTEE ON SECURITY AND EMERGENCY MEDICAL SERVICES AT THE STATE LEGISLATIVE BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. There is established the Joint Legislative Study Committee on Security and Emergency Medical Services at the State Legislative Buildings. The purpose of the Committee is to determine whether and to what extent the security and emergency medical services need to be upgraded at the State legislative buildings and grounds.

SECTION 2. The Committee shall consist of 14 members appointed as follows:

(1) Seven members appointed by the Speaker of the House of Representatives, as follows:
   a. Five members of the House of Representatives, two of whom must be of the minority party.
   b. One member representing the General Assembly Police and recommended by the Chief of the General Assembly Police.
   c. One member representing the State Capitol Police and recommended by the Chief of the State Capitol Police.

(2) Seven members appointed by the President Pro Tempore of the Senate, as follows:
   a. Five members of the Senate, two of whom must be of the minority party.
   b. Two members representing the Threat Assessment Unit and recommended by the Chief of Police of the Raleigh Police Department.

The Committee shall have two cochairs, one designated by the Speaker of the House of Representatives and one designated by the President Pro Tempore of the Senate from among their respective appointees. The Committee shall meet upon the call of the cochairs. Any vacancy on the Committee shall be filled by the original appointing authority. A quorum of the Committee shall be a majority of its members.

SECTION 3. The Committee shall:

(1) Identify the security and emergency medical services that are currently in place for the State legislative buildings and grounds.

(2) Review the Security Survey of the Legislative Complex, a 2000 report done by the United States Secret Service, and identify any additional security measures that may be needed. The Committee shall consider whether there is a need to install active and passive security measures, including those designed to detect weapons and other metal objects, X-ray technology for the detection of hidden weapons in cases and bags, camera monitoring systems for visitor and building security, and controlled traffic access to sensitive areas to prevent attacks by the use of vehicles. The Committee shall determine how to integrate any additional services into the current services.

(3) Determine whether additional emergency medical services are needed. The Committee shall consider whether there is a need to provide the following: (i) at least one emergency medical technician on staff, or on call, at both the Legislative Building and the Legislative Office Building, (ii) first aid and cardiopulmonary resuscitation training for all employees, and (iii) sufficient numbers of automated external defibrillators deployed at accessible sites in the Legislative Building and the Legislative Office Building.

(4) Any other matter that is relevant to the security and emergency medical services at the State legislative buildings and grounds.

SECTION 4. Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may meet in the Legislative Building or the Legislative Office Building.

With approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Committee in its work. The House of Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. The Committee may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02. If the Committee hires a consultant, the consultant shall not be a State employee or a person currently under contract with the State to provide services.

All State departments and agencies and local governments and their subdivisions shall furnish the Committee with any information in their possession or available to them.

SECTION 5. The Committee shall report the results of its study and its recommendations, including an estimate of the cost to the State to implement the Committee's recommendations, to the 2010 Regular Session of the 2009 General Assembly. The Committee shall terminate on May 1, 2010, or upon the filing of its final report, whichever occurs first.

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

HOUSE BILL 1633:
Study Security Services – Legislative Bldgs.

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	June 30, 2009
Introduced by:	Rep. Hall	**Prepared by:**	Shirley Iorio, Ph D
Analysis of:	PCS to First Edition H1633-CSSF-41		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute (PCS) for House Bill 1633 would establish a Joint Legislative Study Committee on Security and Emergency Medical Services at the State Legislative Buildings to determine whether and to what extent the security and emergency medical services need to be upgraded at the State legislative buildings and grounds.***

The PCS for House Bill 1633 has a serial referral to Appropriations.

BILL ANALYSIS: The Committee would have 7 members appointed by the Speaker of the House of Representatives and 7 members appointed by the President Pro Tempore of the Senate including representatives of the General Assembly Police, State Capitol Police, and the Raleigh Police Department's Threat Assessment Unit.

The Committee would focus its study on the legislative buildings and grounds. It would:

- Identify security and emergency medical services currently in place.
- Review the Security Survey of the Legislative Complex, a 2000 report done by the United States Secret Service. The Committee would identify any additional active and passive security services that may be needed such as metal detectors, camera monitoring systems, and x-ray technology.
- Determine how to integrate any additional services into the current services.
- Determine whether additional emergency medical services are needed, including having emergency medical technicians on staff or on call, providing first aid and cardiopulmonary resuscitation training for employees, and having sufficient numbers of automated external defibrillators.
- Any other matter the Committee deems relevant.

The Committee would report its recommendations, including an estimate of the cost to the State to implement its recommendations, to the 2010 General Assembly. The Committee would terminate on May 1, 2010, or upon the filing of its final report, whichever occurs first.

EFFECTIVE DATE: The act would become effective when it becomes law.

HOUSE BILL 1633

Short Title:	Upgrade Security Services-Government Complex.	(Public)
Sponsors:	Representative Hall.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

May 7, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE UPGRADED SECURITY AND EMERGENCY MEDICAL SERVICES AT THE STATE LEGISLATURE, STATE GOVERNMENT COMPLEX, THE EXECUTIVE MANSION, AND THE LIEUTENANT GOVERNOR'S MANSION AND TO PROVIDE FUNDING FOR THE UPGRADED SECURITY SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1. To upgrade the security services at the State Legislature, State Government Complex, the Executive mansion, and the Lieutenant Governor's mansion, each agency exercising control over the State Legislature, State Government Complex, the Executive mansion, and the Lieutenant Governor's mansion shall purchase and deploy active and passive security measures, as needed, that are designed to detect weapons and other metal objects, x-ray technology for the detection of hidden weapons in cases and bags, camera monitoring systems for visitor and building security, and controlled traffic access to sensitive areas to prevent attacks by the use of vehicles.

SECTION 2. To upgrade the emergency medical services at the State Legislature, State Government Complex, the Executive mansion, and the Lieutenant Governor's mansion, each agency exercising control over the State Legislature, State Government Complex, the Executive mansion, and the Lieutenant Governor's mansion shall ensure that at least one emergency medical technician is on staff, or on call, at each location at all times, that all employees are trained in first aid and cardiopulmonary resuscitation, and that sufficient numbers of automated external defibrillators are deployed at accessible sites in each location.

SECTION 3. For the State Legislature, there is appropriated from the General Fund to the Legislative Services Commission the sum of one million dollars ($1,000,000) to comply with this act. For the Executive mansion and the Lieutenant Governor's mansion, there is appropriated from the General Fund to the Department of Crime Control and Public Safety the sum of two hundred fifty thousand dollars ($250,000) to comply with this act. For the State Government Complex, there is appropriated from the General Fund to the Department of Administration the sum of five million dollars ($5,000,000) to comply with this act.

SECTION 4. This act becomes effective July 1, 2009.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 36

Short Title:	Expand Chem. Analysis Sites/Contr. Substance.	(Public)
Sponsors:	Senators Forrester; Allran and Hartsell.	
Referred to:	Judiciary I.	

February 4, 2009

A BILL TO BE ENTITLED

AN ACT TO DESIGNATE THE IREDELL COUNTY CRIME LABORATORY AS AN ADDITIONAL CONTROLLED SUBSTANCE CHEMICAL ANALYSIS SITE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-95(g) reads as rewritten:

"**§ 90-95. Violations; penalties.**

(g) Whenever matter is submitted to the North Carolina State Bureau of Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory, the Crime Laboratory of the Iredell County, North Carolina, Sheriff's Office, or to the Toxicology Laboratory, Reynolds Health Center, Winston-Salem for chemical analysis to determine if the matter is or contains a controlled substance, the report of that analysis certified to upon a form approved by the Attorney General by the person performing the analysis shall be admissible without further authentication in all proceedings in the district court and superior court divisions of the General Court of Justice as evidence of the identity, nature, and quantity of the matter analyzed. Provided, however, that a report is admissible in a criminal proceeding in the superior court division or in an adjudicatory hearing in juvenile court in the district court division only if:

(1) The State notifies the defendant at least 15 days before trial of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and

(2) The defendant fails to notify the State at least five days before trial that the defendant objects to the introduction of the report into evidence.

Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the report."

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

SENATE BILL 36:
Expand Chem. Analysis Sites/Contr. Substance

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary III	**Date:**	June 29, 2009
Introduced by:	Sen. Forrester	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	First Edition		

SUMMARY: ***Senate Bill 36 adds the Iredell County Sheriff's Office Crime Laboratory to the list of laboratories in which chemical analysis reports submitted on approved forms are admissible in district court and superior court without further authentication.***

CURRENT LAW:

G.S. 90-95(g) pertains to matter submitted to the following labs:

- North Carolina State Bureau of Investigation Laboratory including the
  - SBI Crime Lab located in Raleigh,
  - Western Regional Lab in Asheville, and the
  - Triad Regional Lab in Greensboro;
- Charlotte, NC Police Department Laboratory; and the
- Toxicology Lab, Reynolds Health Center, Winston Salem.

If chemical analysis determines that matter is or contains a controlled substance, the report of the analysis, certified to by the person performing the analysis on a form approved by the Attorney General, is admissible in district and superior court proceedings without further authentication.

BILL ANALYSIS:

Senate Bill 36 amends G.S. 90-95(g) to add the Crime Laboratory of the Iredell County, North Carolina, Sheriff's Office.

EFFECTIVE DATE:

Senate Bill 36 would become effective when it becomes law.

S36-SMSH-146(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 986*
Pensions & Retirement & Aging Committee Substitute Adopted 5/7/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S986-PCS55453-LL-52

Short Title: Clarify Local Special Separation Allowance. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING THE SPECIAL SEPARATION ALLOWANCE PROVIDED TO LAW ENFORCEMENT OFFICERS UNDER THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.42 reads as rewritten:

"**§ 143-166.42. Special separation allowances for local officers.**

(a) On and after January 1, 1987, ~~the provisions of G.S. 143-166.41 shall apply to all eligible law-enforcement officers~~ every sworn law enforcement officer as defined by G.S. 128-21(11b) or G.S. 143-166.50(a)(3) ~~who are~~ employed by a local ~~government employers, except as may be provided by this section. As to the applicability of the provisions of G.S. 143-166.41 to locally employed officers, the governing body for each unit of local government shall be responsible for making determinations of eligibility for their local officers retired under the provisions of G.S. 128-27(a) and for making payments to their eligible officers under the same terms and conditions, other than the source of payment, as apply to each State department, agency, or institution in payments to State officers according to the provisions of G.S. 143-166.41.~~ government employer who qualifies under this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

(1) Have (i) completed 30 or more years of creditable service or (ii) have attained 55 years of age and completed five or more years of creditable service; and

(2) Not have attained 62 years of age; and

(3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance,

provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

(b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.

(c) Payment to a retired officer under the provisions of this section shall cease at the first of:

(1) The death of the officer;

(2) The last day of the month in which the officer attains 62 years of age; or

(3) The first day of reemployment by a local government employer in any capacity.

Notwithstanding the provisions of subdivision (3) of this subsection, a local government employer may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System, and doing so shall not cause payment to cease to those officers under the provisions of this section.

(d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.

(e) The governing body of each local employer shall determine the eligibility of employees for the benefits provided herein.

(f) The governing body of each local employer shall make the payments set forth in subsection (a) of this section to those persons certified under subsection (e) of this section from funds available."

SECTION 2. This act is effective when it becomes law, and applies prospectively to payments required by this act whether the officer retired before, on, or after the effective date of this act. Nothing in this act shall be deemed to (i) entitle a law enforcement officer to retroactive payments of any benefit for the period prior to the effective date of this act for which the officer's employer previously determined that the officer was not entitled; (ii) prospectively deny payment of an annual separation allowance to an officer who was previously determined by the officer's employer to be eligible for such benefit; (iii) apply to any pending litigation related to the special separation allowance; or (iv) extend the payment beyond the date when payment shall cease pursuant to G.S. 143-166.42(c), as enacted by this act.

SENATE BILL 986:
Clarify Local Special Separation Allowance

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Pensions and Retirement	**Date:**	June 23, 2009
Introduced by:	Sen. McKissick	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 986 amends the law relating to the special separation allowance paid to retired local law enforcement officers.***

[As introduced, this bill was identical to H816, as introduced by Reps. Cotham, Dollar, McLawhorn, Weiss, which is currently in Senate Pensions & Retirement & Aging.]

CURRENT LAW:

Under current law, a state law enforcement officer may be eligible for the special separation allowance upon retirement if the officer has completed 30 years of service, or is at least 55 years old and has completed five or more years of service, has not reached 62 years of age, and has completed at least five years of continuous service immediately preceding retirement.

The officer's eligibility is determined and the benefit is paid by the employer. The benefit is equal to 5% of the officer's annual base compensation for each year of creditable service. The benefit ceases upon the first of the following events:

1. The death of the officer.
2. The last day of the month in which the officer attains age 62; or
3. The first day of reemployment with a participating employer in a nonexempt position.

The statute authorizing payment of a special separation allowance to local law enforcement officers refers to the provisions of the law for state officers to set the benefit, age and service requirements.

BILL ANALYSIS:

Senate Bill 986 rewrites the law relating to the special separation allowance for local law enforcement officers to mirror the provisions of the law related to state officers with regard to the benefit, and the age and service requirements necessary to qualify for the benefit.

In addition, the bill authorizes a local government employer, in the interest of public safety, to adopt a policy allowing employment of retired officers on a basis not requiring participation in the Local Retirement System. The bill also provides that the benefit is not subject to any increases in salary or retirement allowance. The governing body of the local employer determines eligibility for the benefit and makes payment from available funds.

EFFECTIVE DATE: This act is effective when it becomes law.

86-SMRO-129(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 986*
Pensions & Retirement & Aging Committee Substitute Adopted 5/7/09

Short Title: Clarify Local Special Separation Allowance. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING THE SPECIAL SEPARATION ALLOWANCE PROVIDED TO LAW ENFORCEMENT OFFICERS UNDER THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.42 reads as rewritten:

"**§ 143-166.42. Special separation allowances for local officers.**

(a) On and after January 1, 1987, ~~the provisions of G.S. 143-166.41 shall apply to all eligible law enforcement officers~~every sworn law enforcement officer as defined by G.S. 128-21(11b) or G.S. 143-166.50(a)(3) ~~who are~~ employed by a local ~~government employers, except as may be provided by this section. As to the applicability of the provisions of G.S. 143-166.41 to locally employed officers, the governing body for each unit of local government shall be responsible for making determinations of eligibility for their local officers retired under the provisions of G.S. 128-27(a) and for making payments to their eligible officers under the same terms and conditions, other than the source of payment, as apply to each State department, agency, or institution in payments to State officers according to the provisions of G.S. 143-166.41.~~government employer who qualifies under this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

(1) Have (i) completed 30 or more years of creditable service or (ii) have attained 55 years of age and completed five or more years of creditable service; and

(2) Not have attained 62 years of age; and

(3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

(b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined.

(c) Payment to a retired officer under the provisions of this section shall cease at the first of:

(1) The death of the officer;

(2) The last day of the month in which the officer attains 62 years of age; or

(3) The first day of reemployment by a local government employer in any capacity.

Notwithstanding the provisions of subdivision (3) of this subsection, a local government employer may, in the interest of public safety, voluntarily adopt a policy allowing employment of retired officers on a contractual basis, or in a temporary or reserve capacity not requiring participation in the Local Governmental Employees' Retirement System, without causing the cessation of payment to those officers under this section.

(d) This section does not affect the benefits to which an individual may be entitled from State, local, federal, or private retirement systems. The benefits payable under this section shall not be subject to any increases in salary or retirement allowances that may be authorized by local government employers or for retired employees of local governments.

(e) The governing body of each local employer shall determine the eligibility of employees for the benefits provided herein.

(f) The governing body of each local employer shall make the payments set forth in subsection (a) of this section to those persons certified under subsection (e) of this section from funds available."

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

VISITOR REGISTRATION SHEET

STATE GOVERNMENT/ STATE PERSONNEL — JUNE 30, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Christy Agner	DOAdministration
Betsy Witte	American Heart Assn
Meredith Cook	NC DOL
TOM YOUNG	NC Police Chiefs
Eddie Caldwell	NC Sheriffs Assn.
Jeff Kraus	Fraternal Order of Police
Sarah Clapp	NCWRC
Victoria Hawkins	Bone & Assoc.
Pam Meyer	NCLM

VISITOR REGISTRATION SHEET

STATE GOVERNMENT/ STATE PERSONNEL — JUNE 30, 2009

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Elizabeth Duncan	WCSR
Alicia	MWC
Peter Alfredson	Shadowing Rep. Tricia Cotham, live in Raleigh
Debra DeCamillis	UNC. 10 G
Farah Qumonh	Seanc
JOHN MIDGETTE	NC PBA
LAWLESS BEAN	CITY of WILMINGTON

Minutes
House Committee on State Government/State Personnel
Tuesday, July 7, 2009

The House Committee on State Government/State Personnel met on Tuesday, July 7, 2009, at 2:00 PM in Room 424 of the Legislative Office Building. Chairman Wilkins called the meeting to order. In addition to the Chairman, the following members were present: Representatives Harrell and Mobley, Vice Chairs; and Representatives Burr, Gill, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley, Womble and Yongue. The chairman recognized staff attorneys Theresa Matula, Karen Cochrane-Brown and Shirley Iorio; Sergeant-at-Arms staff Fred Hines, Toussaint Avent, and Robert Rossi; and committee clerk Nancy Brantley. The pages for the meeting were: Chelsea Creech from Johnston County, sponsored by Representative Leo Daughtry; Elizabeth Wallace from Wake County, sponsored by Representative Gill; and Davis Welch of Forsyth County, sponsored by Representative Larry Brown.

Chairman Wilkins announced that, at the request of the bill's author, SB 800 had been pulled from today's agenda.

The following bills were considered:

SB 992, Authorize Mayors To Solemnize Marriages. Sen. Davis explained the bill. Upon motion of Rep. Killian, the Proposed Committee Substitute (PCS) was adopted for discussion. Rep. Harrell, who had chaired a sub-committee to study this bill, explained that the PCS would give mayors discretion in solemnizing marriages and would add a sunset to the provision. Following discussion of the bill, Rep. Mobley made a motion to give the PCS a favorable report, with an unfavorable report to the original bill and with serial re-referral to the Judiciary I committee. The motion failed with a vote of 9 to 4.

SB 978, Firearms Qualify Sites/Expand Commsn. Powers. By motion of Rep. Burr, the Proposed Committee Substitute (PCS) was adopted for discussion. Sen. Bingham explained the bill. Mr. John Aldridge, Special Deputy to the Attorney General, spoke in support of the bill and answered questions of the committee members. Upon motion of Rep. Burr, the PCS was given a favorable report, unfavorable to the original bill, and re-referred to the Committee on Judiciary III.

Chairman Wilkins adjourned the meeting at 2:40 P.M.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Legislative Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

SB 978 A BILL TO BE ENTITLED AN ACT TO DIRECT THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION TO COORDINATE WITH LOCAL AND STATE LAW ENFORCEMENT OFFICERS AND WITH THE COMMUNITY COLLEGE SYSTEM TO PROVIDE MULTIPLE FIREARMS QUALIFICATION SITES FOR CERTIFICATION TO CARRY A CONCEALED HANDGUN PURSUANT TO FEDERAL LAW.

☒ With a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the House committee substitute bill be re-referred to the Committee on JUDICIARY III.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, July 7, 2009, 2:00 PM
Room 424 LOB

I. Agenda Items

SB 800	**Allow Unpaid Investigatory Suspensions/DHHS. Senator Rand**
SB 978	**Firearms Qualification Sites/Retired LEOs. Senator Bingham**
SB 992	**Authorize Mayors to Solemnize Marriage. Senator Davis**

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 992
PROPOSED HOUSE COMMITTEE SUBSTITUTE S992-CSSF-47 [v.2]

7/2/2009 10:31:24 AM

Short Title: Authorize Mayors to Solemnize Marriage. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MAYORS TO SOLEMNIZE MARRIAGES IF AUTHORIZED BY LOCAL ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"**§ 51-1. Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, ~~or a magistrate;~~a magistrate, or a mayor authorized by local ordinance, in the mayor's discretion, to solemnize marriages; and

b. With the consequent declaration by the ~~minister or magistrate~~ minister, magistrate, or mayor that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 2. This act is effective when it becomes law and expires December 31, 2010.

SENATE BILL 992:
Authorize Mayors to Solemnize Marriage

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary I	**Date:**	July 7, 2009
Introduced by:	Sen. Davis	**Prepared by:**	Shirley Iorio, Ph D Legislative Analyst
Analysis of:	PCS to First Edition S992-CSSF-47		

SUMMARY: ***The Proposed Committee Substitute (PCS) to Senate Bill 992 would authorize mayors to solemnize marriages, if authorized by local ordinance.***

The PCS would give mayors discretion in solemnizing marriages and would add a sunset to the provision.

The PCS to Senate Bill 992 has a serial referral to JI.

CURRENT LAW: Under current law, a marriage may be solemnized by:

- a minister of any religious denomination, a minister authorized by a church, or a magistrate, with the subsequent declaration by the minister or magistrate that the persons are husband and wife.
- any mode of solemnization recognized by any religious denomination, or a federally or State recognized Indian Nation or Tribe.

BILL ANALYSIS: Senate Bill 992 would amend G.S. 51-1 to allow a mayor, in his or her discretion, to solemnize a marriage, if authorized by local ordinance. This provision would expire December 31, 2010.

EFFECTIVE DATE: This act would become effective when it becomes law and would expire December 31, 2010.

Giles Perry, Counsel to the Senate JI Committee, substantially contributed to this summary.

S992-SMSF-91(CSSF-47) v2

S 1

SENATE BILL 992

Short Title:	Authorize Mayors to Solemnize Marriage.	(Public)
Sponsors:	Senators Davis; Apodaca, Kinnaird, Snow, Stein, and Stevens.	
Referred to:	Judiciary I.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MAYORS TO SOLEMNIZE MARRIAGES IF AUTHORIZED BY LOCAL ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"**§ 51-1. Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, ~~or a magistrate;~~a magistrate, or a mayor authorized by local ordinance to solemnize marriages; and

b. With the consequent declaration by the ~~minister or magistrate~~ minister, magistrate, or mayor that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S D

SENATE BILL 978
PROPOSED HOUSE COMMITTEE SUBSTITUTE S978-PCS55468-SH-59

Short Title: Firearms Qualify Sites/Expand Commsn. Powers. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION TO COORDINATE WITH LOCAL AND STATE LAW ENFORCEMENT OFFICERS AND WITH THE COMMUNITY COLLEGE SYSTEM TO PROVIDE MULTIPLE FIREARMS QUALIFICATION SITES FOR CERTIFICATION TO CARRY A CONCEALED HANDGUN PURSUANT TO FEDERAL LAW, AND TO EXPAND THE POWERS OF THE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.26 is amended by adding a new subsection to read:

"(b1) The Commission shall coordinate with local and State law enforcement officers and with the community college system to provide multiple firearms qualification sites throughout the State where a qualified law enforcement officer may satisfy the firearms qualification criteria required for certification under this section."

SECTION 2. G.S. 17C-6(a) reads as rewritten:

"(a) In addition to powers conferred upon the Commission elsewhere in this Chapter, the Commission shall have the following powers, which shall be enforceable through its rules and regulations, certification procedures, or the provisions of G.S. 17C-10:

(1) Promulgate rules and regulations for the administration of this Chapter, which rules may require (i) the submission by any criminal justice agency of information with respect to the employment, education, retention, and training of its criminal justice officers, and (ii) the submission by any criminal justice training school of information with respect to its criminal justice training programs that are required by this Chapter.

(2) Establish minimum educational and training standards that must be met in order to qualify for entry level employment and retention as a criminal justice officer in temporary or probationary status or in a permanent position. The standards for entry level employment shall include education and training in response to, and investigation of, domestic violence cases, as well as training in investigation for evidence-based prosecutions.

(3) Certify and ~~recertify,~~ recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, persons as qualified under the provisions of this Chapter to be employed at entry level and retained as criminal justice officers.

(4) Establish minimum standards for the certification of criminal justice training schools and programs or courses of instruction that are required by this Chapter.

(5) Certify and ~~recertify,~~ recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice training schools and programs or courses of instruction that are required by this Chapter.

(6) Establish minimum standards and levels of education and experience for all criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Chapter.

(7) Certify and ~~recertify,~~ recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice instructors and school directors who participate in programs or courses of instruction that are required by this Chapter.

(8) Investigate and make such evaluations as may be necessary to determine if criminal justice agencies, schools, and individuals are complying with the provisions of this Chapter.

(9) Adopt and amend bylaws, consistent with law, for its internal management and control.

(10) Enter into contracts incident to the administration of its authority pursuant to this Chapter.

(11) Establish minimum standards and levels of training for certification and periodic recertification of operators of and instructors for training programs in radio microwave, laser, and other electronic speed-measuring instruments.

(12) Certify and ~~recertify,~~ recertify, suspend, revoke, or deny, pursuant to the standards that it has established, operators and instructors for training programs for each approved type of radio microwave, laser, and other electronic speed-measuring instruments.

(13) In conjunction with the Secretary of Crime Control and Public Safety, approve use of specific models and types of radio microwave, laser, and other speed-measuring instruments and establish the procedures for operation of each approved instrument and standards for calibration and testing for accuracy of each approved instrument.

(13a) Expired effective September 30, 2007. See note.

(14) Establish minimum standards for in-service training for criminal justice officers. In-service training standards shall include training in response to, and investigation of, domestic violence cases, as well as training investigation for evidence-based prosecutions.

(15) Establish minimum standards and levels of training for certification of instructors for the domestic violence training required by subdivisions (2) and (14) of this subsection.

(16) Establish standards and guidelines for the annual firearms certification of qualified retired law enforcement officers, as defined in G.S. 14-415.10(4a), to efficiently implement the provisions of G.S. 14-415.25. The standards shall provide for the courses, qualifications, and the issuance of the annual firearms qualification certification. The Commission may adopt any rules necessary to effect the provisions of this section, and may charge a reasonable fee to applicants for the costs incurred in compliance with this subdivision."

SECTION 3. G.S. 17C-11 is amended by adding a new subsection to read:

"**§ 17C-11. Compliance; enforcement.**

(a) Any criminal justice officer who the Commission determines does not comply with this Chapter or any rules adopted under this Chapter shall not exercise the powers of a criminal justice officer and shall not exercise the power of arrest unless the Commission waives that certification or deficiency. The Commission shall enforce this section by the entry of appropriate orders effective upon service on either the criminal justice agency or the criminal justice officer.

(a1) Any criminal justice training school, program, or course of instruction that the Commission determines does not comply with this Chapter, or any rules adopted under this Chapter, shall not continue to offer programs or courses of instruction unless the Commission waives that certification or deficiency. Any criminal justice instructor, school director, commission certified operator, and any commission certified instructor, who the Commission determines does not comply with this Chapter, or any rules adopted under this Chapter, shall not act as an instructor, school director, or operator unless the Commission waives that certification or deficiency. The Commission shall enforce this section by the entry of appropriate orders effective upon service on the criminal justice training school or the individual holding commission certification.

(b) Any person who desires to appeal the proposed denial, suspension, or revocation of any certification authorized to be issued by the Commission shall file a written appeal with the Commission not later than 30 days following notice of denial, suspension, or revocation.

(c) The Commission may appear in its own name and apply to courts having jurisdiction for injunctions to prevent violations of this Chapter or of rules issued pursuant thereto; specifically, the performance of criminal justice officer functions by officers or individuals who are not in compliance with the standards and requirements of G.S. 17C-6(a) and G.S. 17C-10. A single act of performance of a criminal justice officer function by an officer or individual who is performing such function in violation of this Chapter is sufficient, if shown, to invoke the injunctive relief of this section."

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

SENATE BILL 978:
Firearms Qualification Sites/Retired LEOs

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary III	**Date:**	July 7, 2009
Introduced by:	Sen. Bingham	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to First Edition S978-CSSH-59		

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 978 requires the North Carolina Criminal Justice Education and Training Standards Commission (Commission) to coordinate with local and State law enforcement officers and with the community college system to provide multiple firearms qualification sites throughout the State; expands the powers of the Commission with regard to suspension, revocation, and denial of certification; and prohibits the offering of courses or instruction when programs or persons are not in compliance with laws or rules unless the deficiency is waived by the Commission.***

CURRENT LAW:

In 2007, the General Assembly enacted SL 2007-427, which waived the requirement to obtain a concealed handgun permit for certain persons authorized by federal law to carry concealed handguns, if they are in compliance with federal law, and for certain federal and state retired law enforcement officers. The act gave the North Carolina Criminal Justice Education and Training Standards Commission (Commission) the responsibility and authority to establish the necessary standards and guidelines to certify and recertify qualified retired law enforcement officers to carry concealed weapons, pursuant to federal law, and to adopt rules and charge a reasonable fee. A qualified retired law enforcement officer may apply to the Commission for certification, instead of applying for a concealed carry permit. The Commission is required to notify the person of the limitations applicable under federal or State law, but failure to receive such a notification is not a defense to a violation of federal or State laws.[1]

BILL ANALYSIS:

Section 1 of the Proposed Committee Substitute (PCS) for Senate Bill 978 amends the statute that provides that in lieu of obtaining a concealed handgun permit, a qualified retired law enforcement officer may apply to the North Carolina Criminal Justice Education and Training Standards Commission (Commission) for certification. This section adds a requirement to the statute that the Commission coordinate with local and State law enforcement officers and with the community college system to provide multiple firearms qualification sites throughout the State where qualified law enforcement officers may satisfy the firearms qualification criteria required for certification.

Section 2 of the PCS expands the authority of the Commission to allow suspension, revocation, or denial of certification, pursuant to standards, for:

- Persons qualified under the Chapter to be employed at entry level and retained as criminal justice officers.
- Criminal justice training schools and programs or courses of instruction required by the Chapter.

[1] GS 14-415.25 and GS 14-415.26.

- Criminal justice instructors and school directors who participate in programs or courses of instruction required by the Chapter.
- Operators and instructors for training programs for approved electronic speed-measuring instruments.

Section 3 of the PCS amends the compliance and enforcement section of the law to prohibit the offering of programs or courses by criminal justice training schools, programs, and courses of instruction that the Commission has determined do not comply with the law or rules, unless the Commission waives the deficiency. The section also prohibits criminal justice instructors, school directors, commission certified operators, and commission certified instructors, from acting in those capacities if the Commission has determined that they are not be in compliance with laws or rules, unless the Commission waives the deficiency.

EFFECTIVE DATE:

Senate Bill 978 would become effective when it becomes law.

**Jennifer McGinnis, staff to Senate Judiciary II, contributed to the content of this summary.*

S978-SMSH-150(CSSH-59) v1

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SENATE BILL 978

Short Title:	Firearms Qualification Sites/Retired LEOs.	(Public)
Sponsors:	Senators Bingham; and Hartsell.	
Referred to:	Education/Higher Education.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION TO COORDINATE WITH LOCAL AND STATE LAW ENFORCEMENT OFFICERS AND WITH THE COMMUNITY COLLEGE SYSTEM TO PROVIDE MULTIPLE FIREARMS QUALIFICATION SITES FOR CERTIFICATION TO CARRY A CONCEALED HANDGUN PURSUANT TO FEDERAL LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-415.26 is amended by adding a new subsection to read:

"(b1) The Commission shall coordinate with local and State law enforcement officers and with the community college system to provide multiple firearms qualification sites throughout the State where a qualified law enforcement officer may satisfy the firearms qualification criteria required for certification under this section."

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

VISITOR REGISTRATION SHEET

STATE GOVERNMENT/ST. PERSONNEL 07/07/09

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jane Gilchrist	NC DOJ
* John Aldridge *	NC DOJ
Debra DeCamillis	UNC-IOG
Pat Porter	General Assembly Research
Brittany Farrell	NCFPC

*speaking

Minutes
House Committee on State Government/State Personnel
Tuesday, July 28, 2009

The House Committee on State Government/State Personnel met on Tuesday, July 28, 2009, at 2:00 PM in Room 424 of the Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Harrell, Jackson and Mobley and Representatives Burr, Gill, Justus, Killian, Mackey, Randleman, Sager, Sutton, Wiley, and Womble. Chairman Wilkins recognized staff attorneys Karen Cochrane-Brown, Theresa Matula, and Shirley Iorio; Committee Assistant Nancy Brantley, and Sergeant-at-Arms staff Fred Hines and James Worth.

Chairman Wilkins also recognized and thanked Pages Emily Bottinger of Durham, sponsored by Representative Luebke, Charles Young of Davidson County, sponsored by Representative Dockham, and Daniel Dunlow from Halifax County, sponsored by Representative Wray.

The following bill was considered:

SB 800, Allow Unpaid Investigatory Suspensions/DHHS. By motion of Representative Sager, the proposed committee substitute (PCS) for the bill was adopted for discussion. Senator Rand was recognized to explain the bill. During the discussion that followed, there were mixed expressions about the bill. Dana Cope of SEANC spoke against the bill and Pearla Alston of DHHS spoke in support of the bill, and Representative Womble remarked that the "idea of the bill is there," but it needed further work. Chairman Wilkins announced there would be no action taken on the bill; it was being displaced.

The meeting was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, July 28, 2009, 2:00 PM
Room 424 LOB

I. Agenda Item

SB 800 **Allow Unpaid Investigatory Suspensions/DHHS.**
Senator Rand

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 800
State and Local Government Committee Substitute Adopted 4/22/09
Third Edition Engrossed 5/5/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S800-CSSH-62 [v.1]

7/20/2009 6:53:45 PM

Short Title: Allow Unpaid Investigatory Suspensions/DHHS. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN PERMANENT EMPLOYEES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO BE PLACED ON INVESTIGATORY SUSPENSION WITHOUT PAY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-181 is amended by adding a new subsection to read:

"(d) Notwithstanding G.S. 126-35 and G.S. 115C-325, the director or assistant director of a facility or school operated by the Secretary pursuant to subsection (a) of this section may place a permanent employee on investigatory suspension without pay if the director or assistant director believes that cause exists for dismissing the permanent employee for abuse, neglect, or exploitation of a patient, client, student, or other person over whom the Department has charge. Before a permanent employee is placed on investigatory suspension without pay pursuant to this subsection, the employee's supervisor shall meet with the employee and give notice of the charges and bases for the placement and an opportunity to respond. The Department shall provide the employee with written notice of the charges and bases for the placement on investigatory suspension without pay not later than the employee's second scheduled workday after the beginning of the placement. Within 10 calendar days after placing an employee on investigatory suspension without pay under this subsection, the Department shall conclude its investigation and, if misconduct is confirmed, initiate procedures for dismissal, demotion, or disciplinary suspension without pay, as provided in G.S. 115C-325 or G.S. 126-35, as applicable. If the Department is unable to conclude its investigation within the 10-day period, the Department may change the employee's status to investigatory placement with pay, as provided in Title 25 of the North Carolina Administrative Code. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the employee shall be reinstated immediately, shall be paid for the period of placement on investigatory suspension without pay, and all records of the placement shall be removed from the employee's personnel file. Placement of an employee on investigatory suspension without pay under this subsection shall not affect the employee's health insurance coverage, retirement and State service credits, longevity credits, or other earned benefits during the period of the suspension."

SECTION 2. G.S. 143B-146.21 is amended by adding a new subsection to read:

"(f) Notwithstanding G.S. 126-35 and G.S. 115C-325, the director or assistant director of a facility or school operated by the Secretary pursuant to G.S. 143B-164.10 and

G.S. 143B-216.40 may place a permanent employee on investigatory suspension without pay if the director or assistant director believes that cause exists for dismissing the permanent employee for abuse, neglect, or exploitation of a patient, client, student, or other person over whom the Department has charge. Before a permanent employee is placed on investigatory suspension without pay pursuant to this subsection, the employee's supervisor shall meet with the employee and give notice of the charges and bases for the placement and an opportunity to respond. The Department shall provide the employee with written notice of the charges and bases for the placement on investigatory suspension without pay not later than the employee's second scheduled workday after the beginning of the placement. Within 10 calendar days after placing an employee on investigatory suspension without pay under this subsection, the Department shall conclude its investigation and, if misconduct is confirmed, initiate procedures for dismissal, demotion, or disciplinary suspension without pay, as provided in G.S. 115C-325 or G.S. 126-35, as applicable. If the Department is unable to conclude its investigation within the 10-day period, the Department may change the employee's status to investigatory placement with pay, as provided in Title 25 of the North Carolina Administrative Code. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the employee shall be reinstated immediately, shall be paid for the period of placement on investigatory suspension without pay, and all records of the placement shall be removed from the employee's personnel file. Placement of an employee on investigatory suspension without pay under this subsection shall not affect the employee's health insurance coverage, retirement and State service credits, longevity credits, or other earned benefits during the period of the suspension."

SECTION 3. This act becomes effective October 1, 2009, and applies to charges of abuse, neglect, or exploitation made on or after that date against permanent employees of facilities or schools operated by the Department of Health and Human Services.

SENATE BILL 800:
Allow Unpaid Investigatory Suspensions/DHHS

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary III	**Date:**	July 20, 2009
Introduced by:	Sen. Rand	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	PCS to Third Edition S800-CSSH-62		

SUMMARY: The Proposed Committee Substitute (PCS) for Senate Bill 800 allows the Department of Health and Human Services to place permanent employees at any facility or school operated by the Department on investigatory suspension without pay for 10 days if the employee is accused of abuse, neglect, or exploitation of a patient, client, student, or other person in the Department's charge. The PCS also requires that before an employee is placed on investigatory suspension without pay, the employee's supervisor must meet with the employee, give notice of the charges and bases for the placement, and give the employee an opportunity to respond.

BILL ANALYSIS:

Section 1 of the PCS for Senate Bill 800 adds a new subsection (d) to G.S. 122C-181, which pertains to the jurisdiction of the Secretary of Health and Human Services over State facilities (psychiatric hospitals, developmental centers, alcohol and drug treatment centers, neuro-medical treatment centers, and residential programs.) Notwithstanding G.S. 126-35 and G.S. 115C-325, the bill provides that if a director or assistant director for a facility or school operated by the Secretary believes that cause exists for dismissing a permanent employee for abuse, neglect, or exploitation of a patient, client, student, or other person over whom the Department has charge, the director or assistant director may place a permanent employee on investigatory suspension without pay for 10 days.

- Before the employee is placed on investigatory suspension without pay, the supervisor must meet with the employee and give notice of the charges and bases for the placement and provide an opportunity for the employee to respond.
- Not later than the employee's second scheduled workday after the beginning of the placement on investigatory suspension without pay, the Department is required to provide the employee with written notice of the charges and bases for the placement.
- Within 10 calendar days after placement on investigatory suspension without pay, the Department must complete its investigation.
    - If misconduct is confirmed, the Department will initiate procedures for dismissal, demotion, or disciplinary suspension without pay.
    - If it is determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the employee will be immediately reinstated, paid for the period of placement on investigatory suspension without pay, and all records of the placement removed from the employee's personnel file.
- If the Department cannot conclude the investigation within the 10-day period, the employee's status may be changed to investigatory placement with pay.

- Placement on investigatory suspension without pay does not affect the employee's health insurance coverage, retirement and State service credits, longevity credits, or other earned benefits during the period of suspension.

Section 2 of the PCS amends Article 3, Part 3A., Education Programs in Residential Schools operated under the authority of the Department of Health and Human Services, to add a new subsection (f) to G.S. 143B-146.21. The language added by this new subsection allows a director or assistant director of a school (Governor Morehead School, Eastern North Carolina School for the Deaf at Wilson, and North Carolina School for the Deaf at Morganton) or facility operated by the Secretary to place a permanent employee on investigatory suspension without pay and otherwise mirrors the language in Section 1 of the bill.

EFFECTIVE DATE:

Senate Bill 800 would become effective October 1, 2009, and apply to charges of abuse, neglect, or exploitation made on or after that date against permanent employees of facilities or schools operated by the Department of Health and Human Services.

CURRENT LAW:

Disciplinary Actions for State Employees - G.S. 126-35 allows an employee subject to the State Personnel Act to be suspended without warning for causes relating to personal conduct detrimental to State service, pending the giving of written reasons, in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons.

- **Placement on Investigatory Status with Pay**– Section 7, page 20 of the State Personnel Manual (25 N.C.A.C. 01J .0615) allows employees to be placed on investigatory status with pay for up to 30 days (a 30 day extension is possible with approval of the agency head and the State Personnel Director). Placement on investigation with pay does not constitute a disciplinary action. Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled work day after the placement. An employee may be placed on investigatory status with pay to:
  - investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action,
  - to provide time within which to schedule and conduct a pre-disciplinary conference; or
  - to avoid disruption of the work place and/or to protect the safety of persons or property.
- **Disciplinary Suspension Without Pay** - Section 7, Page 13 of the State Personnel Manual provides that an employee may be suspended without pay for disciplinary reasons for:
  - a current incident of unsatisfactory job performance after the receipt of at least one prior disciplinary action, or
  - without prior warning or disciplinary action for any form of unacceptable personal conduct or grossly inefficient job performance.

  The State Personnel Manual requires that before an employee is placed on disciplinary suspension without pay, a supervisor must schedule and conduct a pre-disciplinary conference, give the employee a statement in writing of the acts or failure to act that are the reason for the suspension, and inform the employee of their appeal rights. (Note appeal rights are for career status State employees. (G.S. 126-1.1))

DHHS Educators - G.S. 126-5(c3) provides that except for certain provisions, Chapter 126 (the State Personnel Act) does not apply to teaching and related educational classes of employees of the

Department of Health and Human Services whose salaries are set in the same manner as public school employees in Chapter 115C. DHHS has developed policies to implement a system of human resources administration, including disciplinary and grievance procedures for its educators with the intent of being consistent with the provisions of Articles 21A (Privacy of Personnel Records) and 22 (General Regulations) of Chapter 115C (Education).

The provisions below exist under the DHHS Policies and Procedures for Educators. For purposes of these policies, the "superintendent" is the DHHS Director of the Office of Education Services as appointed by the Secretary of DHHS.

- **Suspension Without Pay** – Allows the superintendent to suspend an educator without pay if the superintendent or designee has met with the educator, given written notice of the charges, an explanation of the bases for the charges, and the opportunity to respond. The superintendent must initiate a dismissal, demotion, or disciplinary suspension without pay, or reinstate the educator with pay and remove records of the suspension from the personnel file if no grounds for disciplinary action are found. (This policy is similar to G.S. 115C-325(f)(1).)
- **Investigatory Suspension With Pay** – Provides that if the superintendent believes that cause may exist for disciplining, dismissing, or demoting an educator for specific reasons, but that additional investigation is necessary, the superintendent may suspend the educator with pay for a reasonable time, not to exceed 90 calendar days, unless both the superintendent and educator agree to the extension. If action, or extension of the period, is not initiated within 90 days, the educator must be reinstated. (This policy is similar to G.S. 115C-325(f1).)

Barbara Riley and Karen Cochrane-Brown contributed to this summary.

S800-SMSH-152(CSSH-62) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 3

SENATE BILL 800

State and Local Government Committee Substitute Adopted 4/22/09
Third Edition Engrossed 5/5/09

Short Title: Allow Unpaid Investigatory Suspensions/DHHS. (Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN PERMANENT EMPLOYEES OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO BE PLACED ON INVESTIGATORY SUSPENSION WITHOUT PAY AND WITHOUT WARNING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-181 is amended by adding a new subsection to read:

"(d) Notwithstanding G.S. 126-35 and G.S. 115C-325, the Department may place any permanent employee of any facility or school operated by the Secretary pursuant to subsection (a) of this section on investigatory suspension without pay and without warning if the employee is accused of abuse, neglect, or exploitation of a patient, client, student, or other person over whom the Department has charge, in order to protect the safety of persons or property or other serious reasons. The Department shall provide the employee with written reasons for the placement on investigatory suspension without pay not later than the employee's second scheduled workday after the beginning of the suspension. Within 10 calendar days after placing an employee on investigatory suspension without pay under this subsection, the Department shall initiate procedures for dismissal, demotion, or disciplinary suspension without pay, as provided in G.S. 126-35 or G.S. 115C-325, as applicable. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the employee shall be reinstated immediately, shall be paid for the period of the investigatory suspension without pay, and all records of the suspension shall be removed from the employee's personnel file. Placement of an employee on investigatory suspension without pay under this subsection shall not affect the employee's health insurance coverage, retirement and State service credits, longevity credits, or other earned benefits during the period of the suspension."

SECTION 2. G.S. 143B-146.21 is amended by adding a new subsection to read:

"(f) Notwithstanding G.S. 126-35 and G.S. 115C-325, the Department may place any permanent employee of any facility or school operated by the Secretary pursuant to G.S. 143B-164.10 and G.S. 143B-216.40 on investigatory suspension without pay and without warning if the employee is accused of abuse, neglect, or exploitation of a patient, client, student, or other person over whom the Department has charge, in order to protect the safety of persons or property or other serious reasons. The Department shall provide the employee with written reasons for the placement on investigatory suspension without pay not later than the employee's second scheduled workday after the beginning of the suspension. Within 10 calendar days after placing an employee on investigatory suspension without pay under this subsection, the Department shall initiate procedures for dismissal, demotion, or disciplinary suspension without pay, as provided in G.S. 126-35 or G.S. 115C-325, as applicable. If it is



finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the employee shall be reinstated immediately, shall be paid for the period of the investigatory suspension without pay, and all records of the suspension shall be removed from the employee's personnel file. Placement of an employee on investigatory suspension without pay under this subsection shall not affect the employee's health insurance coverage, retirement and State service credits, longevity credits, or other earned benefits during the period of the suspension."

SECTION 3. This act becomes effective October 1, 2009, and applies to charges of abuse, neglect, or exploitation made on or after that date against permanent employees of facilities or schools operated by the Department of Health and Human Services.

VISITOR REGISTRATION SHEET

State Gov. State Personnel — 7-28-09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Emily Doyle	NCPAPA
Kathy Grauer	NC-DHHS
Pearla Alston	NC-DHHS
Toni Davis	SEANC
Dana Cope	SEANC
Debra DeCandia	UNC-IOG
Ardis Watkins	SEANC
Belinda Williams	SEANC
Suzanne Malysz	SEANC
Carl Hadra	OSP
S Wilson	DHHS

VISITOR REGISTRATION SHEET

State Gov. State Per — 7.28.09

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Cheryl Moon	SEANC 209 Westover Dr. Knole 27545
Matt Phillippi	SEANC 1621 Midtown Dr Raleigh NC
Erica Baldwin	SEANC 1621 Midtown Pl Raleigh, NC
Amber Ernst	SEANC 1621 Midtown Pl Raleigh NC
Mary Adair DeBell	SEANC 1621 Midtown Pl Raleigh, NC
Jerry Thompson	SEANC 209 westover dr. Knightdale, N.C.
Will Cubbison	SEANC
Annaliese Dolph	DRNC
Pat Porter	NC General Assem - Research
Amy McCurley	Smith Anderson

VISITOR REGISTRATION SHEET

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS

SPEAKER REGISTRATION SHEET

State Government/State Personnel — July 21, 2009

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Dana Cope	SEANC

2010

House Committee on State Government/State Personnel

2009-2010 Session

Book 3 of 3

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H0008	Pierce	PROHIBIT CELL PHONES IN PRISON.	*H	Re-ref Com On Appropriations/ Base Budget	02-12-09	02-25-09
H0062=	Justus	STATE HEALTH PLAN - HENDERSONVILLE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	02-12-09	
H0086=	Weiss	ATV & MOTORCYCLES OFF-ROAD FUND.	*H	Re-ref Com On Appropriations	02-12-09	04-22-09
H0089=	Haire	SMOKY MOUNTAINS NATIONAL PARK PLATE CHANGES.	H	Ref To Com On Appropriations/ Base Budget	02-12-09	02-24-09
H0115=	McLawhorn	JOINT DV COMMITTEE/ RECOMMENDATIONS.	*HR	Ch. SL 2009-342	02-11-09	03-25-09
H0174	Adams	BD OF GOVERNORS STUDENT MAY VOTE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Education	02-18-09	
$ H0190	**Stam**	**MEDICAID IMPROPER CLAIMS SOFTWARE/FUNDS.**	**H**	**Re-ref Com On Appropriations**	**02-18-09**	**03-11-09**
H0201=	Spear	ADD DIVISION OF LESS TO CCPS.	*HR	Ch. SL 2009-81	02-18-09	03-04-09
H0208	Harrison	SPAY/NEUTER PROGRAM TRANSFER/FUNDS.	*H	Re-ref Com On Finance	02-18-09	05-27-10
H0210	Goforth	DISAPPROVE GENERAL CONTRACTORS BOARD RULE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	02-18-09	
H0213=	Insko	VSL NONFAMILY SICK LEAVE DONATIONS.	*HR	Ch. SL 2010-139	02-19-09	05-04-09
H0213=	Insko	VSL NONFAMILY SICK LEAVE DONATIONS.	*HR	Ch. SL 2010-139	07-01-10	07-06-10
H0214	Insko	STATE EMPLOYEE COMMUNITY SERVICE DAYS.	*H	Re-ref Com On Appropriations	02-19-09	03-26-09
H0221=	Goodwin	OVERSIGHT OF LICENSING BOARDS.	*HR	Ch. SL 2009-125	02-19-09	03-04-09
H0321=	E. Warren	ZOO AND ZOO FUNDS MODIFICATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Commerce, Small Business, and Entrepreneurship	03-02-09	
H0339	McElraft	TAXPAYER TRANSPARENCY ACT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-02-09	
H0353=	Insko	PEOPLE FIRST.	*H	Re-ref Com On Health	03-02-09	03-11-09
H0377=	Martin	AUTHORIZE EMERGENCY MGMT. CERTIFICATION	*HR	Ch. SL 2009-192	03-25-09	04-08-09

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
		PROG.				
378=	Martin	STATUTORILY ESTABLISH DIVISION OF EMERG. MGMT.	*HR	Ch. SL 2009-397	03-25-09	04-08-09
H0379=	Martin	ALLOWS MUTUAL AID BETWEEN STATE & LOCAL GOV.	HR	Ch. SL 2009-194	04-01-09	04-08-09
H0381=	Martin	EXPAND DIVISION OF EMERGENCY MGMT. AUTHORITY.	*HR	Ch. SL 2009-193	03-04-09	04-01-09
H0405=	Justus	WESTERN JUSTICE ACADEMY FIRING RANGE.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-05-09	
H0406=	Justus	WEST. JUST. ACAD./ WILDLIFE RES. FIRING RANGE.	*HR	Ch. SL 2009-449	03-05-09	05-06-09
H0409	Sutton	ANNUAL ARCHAEOLOGY REPORTS.	H	Re-ref Com On State Government/ State Personnel	05-07-09	
H0467=	Tucker	AUDITOR EX OFFICIO DUTIES.	H	Ref to the Com on State Government/ State Personnel, if favorable, Science and Technology	03-09-09	
H0473	Hurley	MAGISTRATE CAN CARRY GUN IN COURTHOUSE.	*HR	Ch. SL 2009-513	03-12-09	03-25-09
543	Tarleton	NO PENALTY FOR COMM. COLL. AUDIT EXCEPTION.	HR	Ch. SL 2009-208	03-30-09	05-06-09
...544	Dollar	ECONOMIC IMPACT/ REGULATORY LEGISLATION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-12-09	
H0555=	Tillis	TRANSPARENCY IN RECOMMENDATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	03-12-09	
H0596	Fisher	ALLOW IN-HOME LIC'D BARBERING.	*HR	Ch. SL 2009-471	03-16-09	04-01-09
H0617	Allen	DISABLED SPORTSMEN/ ATV EXCEPTION.	*HR	Ch. SL 2010-146	05-11-09	05-13-09
H0628	Spear	AQUARIUM SATELLITE AREAS FUNDING.	*HR	Ch. SL 2009-14	03-18-09	03-25-09
H0649=	Fisher	TAX INFO DISCLOSURE TO STATE TREASURER.	H	Held by Senate	03-18-09	05-04-09
H0683	Crawford	PERMIT EXTENSIONS.	*H	Pres. To Gov. 7/ 10/2010	03-19-09	04-01-09
H0696	Burris-Floyd	MOTORCYCLE AWARENESS MONTH.	H	Re-ref Com On Appropriations/ Base Budget	03-23-09	04-01-09
H0708	Rapp	FURLOUGH OF STATE EMPLOYEES.	H	Ref to the Com on State Government/	03-23-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				State Personnel, if favorable, Appropriations		
H0723	Tucker	ELECTRONIC REPORTING OF ABANDONED PROPERTY.-AB	HR	Ch. SL 2009-177	03-23-09	04-08-09
H0724	Cleveland	OPEN RECORDS ATTORNEYS' FEES.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary I	03-23-09	
H0735	Tarleton	BLDG. CODE/HIGH SCHOOLERS AT COMM. COLL.	*HR	Ch. SL 2009-206	04-16-09	05-04-09
H0746=	Insko	AMEND PROFESSIONAL COUNSELORS ACT/FEES.	*HR	Ch. SL 2009-367	03-24-09	04-30-09
H0746=	Insko	AMEND PROFESSIONAL COUNSELORS ACT/FEES.	*HR	Ch. SL 2009-367	07-13-09	07-14-09
H0749	K. Alexander	USE OF CISTERNS IN CONSTRUCTION/ RENOVATION.	*HR	Ch. SL 2009-243	04-21-09	05-06-09
H0780	Brubaker	BUILDING CODE/EXEMPT EQUESTRIAN ARENAS.	*HR	Ch. SL 2009-245	04-16-09	05-07-09
H0780	Brubaker	BUILDING CODE/EXEMPT EQUESTRIAN ARENAS.	*HR	Ch. SL 2009-245	06-18-09	06-23-09
H0808=	Gulley	COM. COLL. CONST. PROC./DOI CODE ENF. CLARIF.	*HR	Ch. SL 2009-229	04-30-09	05-13-09
H0808=	Gulley	COM. COLL. CONST. PROC./DOI CODE ENF. CLARIF.	*HR	Ch. SL 2009-229	06-11-09	06-17-09
348	Tillis	MAGISTRATES PROVIDE APPOINTMENT OF COUNSEL.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	03-30-09	
H0859	Guice	AMEND CONCEALED HANDGUN PERMIT LAWS.	*HR	Ch. SL 2010-104	05-07-09	05-13-09
H0876=	Wainwright	PROBATION STUDY.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	03-31-09	
H0912	Killian	ENCOURAGE USE OF MILITARY VETERAN CONTRACTORS.	*H	Ref To Com On Commerce	04-30-09	05-07-09
H0935	McGee	HSC ON HOMEOWNER ASSOCIATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Rules, Calendar, and Operations of the House	04-01-09	
$ H0947	**Pierce**	**ROOT OUT POVERTY/TASK FORCE FUNDS.**	**H**	**Ref to the Com on State Government/ State Personnel,**	**04-01-09**	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				if favorable, Appropriations		
949=	Johnson	REED GOLD MINE REVOLVING FUND.	*H	Re-ref Com On Finance	04-01-09	05-13-09
H0962	Brubaker	SUSPEND SUPERIOR COURT JUDGE ROTATION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary II	04-02-09	
H0972	Tarleton	CREATE UWHARRIE REGIONAL RESOURCES COMM'N.	*H	Pres. To Gov. 7/ 10/2010	04-28-09	05-13-09
H1009	Bell	END DOA SUPERVISION OF LOCAL VETERANS SERVICE.	*HR	Ch. SL 2009-280	05-12-09	05-14-09
H1014	Folwell	ORGAN DONATION MONTH.	H	Ref To Com On Health Care	04-02-09	04-22-09
H1031	Folwell	BLDG. STDS./PRE-K CLASSES IN PUBLIC SCHOOLS.	*HR	Ch. SL 2009-123	05-05-09	05-13-09
H1033	Cole	FIREFIGHTER/EMS PAYROLL DEDUCTION.	H	Serial referral changed from Jud. II to Jud. III	04-06-09	04-07-09
H1033	Cole	FIREFIGHTER/EMS PAYROLL DEDUCTION.	H	Serial referral changed from Jud. II to Jud. III	04-07-09	
H1035	Glazier	PERFORMANCE & PAYMENT BOND MODIFICATION.	*HR	Ch. SL 2010-148	04-06-09	05-13-09
H1046	M. Alexander	CHILD CARE FACILITIES RULES.	*HR	Ch. SL 2009-187	05-06-09	05-13-09
979	Harrison	ENERGY-EFFICIENT STATE MOTOR VEHICLE FLEET.	*HR	Ch. SL 2009-241	04-27-09	04-29-09
H1082=	Crawford	REPAIR & RENOVATION FUND FORMULA.	H	Re-ref Com On Appropriations	04-06-09	05-13-09
H1088	Braxton	DHHS/PROCUREMENT METHODS.	HR	Ch. SL 2009-184	05-07-09	05-13-09
H1095	R. Warren	LOCAL RETIREMENT SYS./ INCLUDE NCSA.	H	Ref to the Com on State Government/ State Personnel, if favorable, Pensions and Retirement	04-07-09	
H1108	Hill	CLARIFY LICENSE REQ/ OUT OF STATE WEIGHMASTERS.	HR	Ch. SL 2009-87	05-06-09	05-13-09
H1112	Goodwin	AMEND BIRTH REGISTRATION REQUIREMENTS.	*HR	Ch. SL 2009-285	04-07-09	04-29-09
H1115	Gulley	ALLOW ELECTRONIC PAROLE NOTIFICATION.	*HR	Ch. SL 2010-107	04-14-09	05-04-09
H1129	Mobley	CLARIFY SILVER ALERT-ALL AGES.	HR	Ch. SL 2009-143	04-15-09	05-06-09
H1135	Ross	QUI TAM/LIABILITY FOR FALSE CLAIMS.	*HR	Ch. SL 2009-554	04-07-09	06-03-09
H1141	Allen	DOA/EXAMINE OWNERSHIP	H	Re-ref Com On	04-07-09	04-22-09

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
		OF STATE LAND.		Appropriations		
142	Braxton	FIRE AND RESCUE PENSION FUND CHANGES.	H	Ref to the Com on State Government/ State Personnel, if favorable, Pensions and Retirement	04-07-09	
H1156	Dockham	ENGLISH ONLY LOTTERY MATERIALS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Ways and Means/ Broadband Connectivity	04-08-09	
H1168	Glazier	TITLE PROTECTION/ SOCIAL WORKERS.	*HR	Ch. SL 2009-88	04-08-09	05-06-09
H1171	Glazier	LAW STUDENT EXTERNS AT GENERAL ASSEMBLY.	*HR	Ch. SL 2009-129	04-08-09	04-22-09
$ H1172	**Owens**	**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE.**	***HR**	**Ch. SL 2009-450**	**04-08-09**	**04-15-09**
H1191=	Blust	PROPERTY FINDERS.	*H	Re-ref Com On Judiciary I	04-08-09	04-29-09
H1202	Harrison	EXPAND MEMBERSHIP/ GEN. STATUTES COMMISSION.	H	Re-ref Com On Appropriations	04-08-09	05-04-09
H1215	Allred	CHANGE DEFN OF INCOME FOR HOMESTEAD EXCLUSION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	04-08-09	
...21	Folwell	DEVELOP EMPLOYEE BENEFITS STATEMENT.	*HR	Ch. SL 2009-63	04-09-09	04-22-09
H1230=	Gibson	APA RULES: INCREASING COSTS PROHIBITION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Environment and Natural Resources, if favorable, Judiciary I	04-09-09	
H1234	Gibson	FIREARMS ALLOWED IN CERTAIN STATE PARKS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	04-09-09	
H1249	Harrell	HOMEBUILDER PROPERTY TAX DEFERRAL CHANGE	*HR	Ch. SL 2010-140	05-05-09	05-13-09
H1251	Harrell	COLONIAL SPANISH MUSTANG AS STATE HORSE	*HR	Ch. SL 2010-6	05-05-09	05-13-09
H1258	Carney	CREATE GLOBAL ENGAGEMENT COMMISSION.	H	Re-ref Com On Rules, Calendar, and Operations of the House	04-09-09	05-04-09
H1262=	Mackey	EXPAND INTERPRETING	H	Ref to the Com on	04-09-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
		SERVICES.		State Government/ State Personnel, if favorable, Appropriations		
H1266	Jones	LAW ENFORCEMENT OFFICER PROTECTION ACT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	04-09-09	
H1271	Goodwin	CLARIFY SOCIAL SERVICES COMMISSION AUTHORITY.	*HR	Ch. SL 2009-188	04-09-09	04-29-09
H1278	Pierce	HIGH UNEMPLOYMENT TRIGGERS STATE RESPONSE.	*H	Re-ref Com On Appropriations	04-09-09	05-07-09
H1287	Harrison	RECYCLE PRODUCTS CONTAINING MERCURY.	*H	Re-ref Com On Appropriations/ Base Budget	04-09-09	05-04-09
H1342	Bordsen	FREE MEDICAL EXAM-VICTIMS OF RAPE/SEX OFFENSES.	*HR	Ch. SL 2009-354	04-09-09	05-06-09
H1357	McCormick	RETIRED PART-TIME LEO/ CONCEALED CARRY PERMIT.	H	Re-ref Com On Judiciary II	04-09-09	05-04-09
H1377	Folwell	SAFE SCHOOLS ACT.	*H	Pres. To Gov. 7/9/ 2010	04-09-09	05-13-09
H1409	Justice	BUILDING CODE EXCLUSION/CERTAIN WIRING.	*HR	Ch. SL 2009-532	05-07-09	05-13-09
!10	Justice	BUILDING CODE EXCLUSION/HOT WATER HEATERS.	*H	Ref To Com On Commerce	05-06-09	05-13-09
H1429	Lewis	MORTGAGE GUARANTY INSURER SUNSET EXTENDED	*HR	Ch. SL 2010-40	05-12-09	05-14-09
H1429	Lewis	MORTGAGE GUARANTY INSURER SUNSET EXTENDED	*HR	Ch. SL 2010-40	05-31-10	06-16-10
H1453	Dollar	STATE MAINTENANCE VEHICLES-PARKING CAPITOL.	*HR	Ch. SL 2009-262	04-13-09	05-13-09
H1481	Bryant	ENERGY TO COMMERCE; OEO TO ENERGY.	*HR	Ch. SL 2009-446	04-13-09	05-13-09
H1491	Harrell	ITS/SPA AND EXEMPT POSITION CLARIFICATIONS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	04-13-09	
$ H1496	**Dollar**	**STUDY BEACON HR/ PAYROLL IMPLEMENTATION.**	***H**	**Re-ref Com On Appropriations**	**04-13-09**	**05-04-09**
H1590	Dollar	THE SCHOOL CONSTRUCTION BOND ACT OF 2009.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	05-06-09	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
H1591	Jones	GA MEMBERS/FULL-TIME LEGISLATIVE ASSISTANTS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-06-09	
H1593	Lewis	LOCAL TAX LIEN/ PRIORITY OVER STATE TAX LIEN.	H	Ref to the Com on State Government/ State Personnel, if favorable, Finance	05-06-09	
H1618	Bordsen	COMMUNITY-BASED CORRECTIONS FUNDS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-07-09	
H1633	Hall	STUDY SECURITY SERVICES-LEGISLATIVE BLDGS.	*H	Re-ref Com On Appropriations	05-07-09	07-01-09
H1650	Adams	COMMUNITIES OF OPPORTUNITY FUND.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-07-09	
H1717=	R. Warren	MODERNIZATION OF THE STATE ABC SYSTEM.	*HR	Ch. SL 2010-122	06-09-10	06-16-10
H1767=	Bryant	INVENTORY OF ANTIPOVERTY EFFORTS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Rules, Calendar, and Operations of the House	05-18-10	
H1801=	Harrison	ENVIRONMENTAL TECHNICAL CORRECTIONS 2010.	*H	Ref To Com On Rules and Operations of the Senate	06-01-10	06-22-10
H1802=	Harrison	ENR REPORTS CONSOL./ TECH. CORRECTS 2010.	*HR	Ch. SL 2010-142	06-01-10	06-22-10
H1803=	Harrison	REVIEW NC PROGRAMS FOR CLIMATE CHANGE IMPACTS	*H	Re-ref Com On State Government/ State Personnel	05-26-10	
$ H1823	**Crawford**	**SELL UNDERUTILIZED STATE AIRCRAFT.**	**H**	**Re-ref Com On Appropriations**	**05-19-10**	**06-09-10**
H1851=	Cole	AMEND STATE PURCHASES & CONTRACTS LAWS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary II	05-20-10	
H1852=	Cole	STUDY NONPROFIT GRANTS ACCOUNTABILITY.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	05-20-10	06-02-10
H1863=	Johnson	REED GOLD MINE REVOLVING FUND.	H	Re-ref Com On Appropriations	05-20-10	05-26-10
H1881=	McGee	IMPROVE TAX & DEBT COLLECTION PROCESS.	H	Ref to the Com on State Government/	05-20-10	

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
				State Personnel, if favorable, Finance		
H1884=	Rapp	AMEND SEAA BOARD MEMBERSHIP.	H	Ref To Com On Education/Higher Education	06-08-10	06-10-10
H1892=	Insko	PRGM EVAL STUDY AGENCY REVERSAL ALJ DECISION.	H	Re-ref Com On Rules, Calendar, and Operations of the House	05-20-10	06-29-10
H1987	Heagarty	CITIZENS RECOMMEND LEGISLATIVE PAY.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-26-10	
H1997	Cleveland	NONPROFITS/CRITERIA TO RECEIVE STATE FUNDS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-26-10	
H2016	Insko	OPEN ENROLLMENT/ CONTRIBUTORY DEATH BENEFIT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Pensions and Retirement, if favorable, Appropriations	05-26-10	
H2017	Heagarty	CITIZENS' COMPENSATION COMMISSION.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	05-26-10	
H2025	Blackwell	UNIFORM SALARY ADJUSTMENT CRITERIA/ STATE GOVT.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations, if favorable, Rules, Calendar, and Operations of the House	05-26-10	
H2066	Bryant	SPECIAL RETIREMENT ALLOWANCES.	*HR	Ch. SL 2010-124	05-27-10	06-22-10
S0015	Tony Rand	SESSION LIMITS.	H	Ref to the Com on State Government/ State Personnel, if favorable, Appropriations	02-24-09	
S0036	James Forrester	EXPAND CHEM. ANALYSIS SITES/CONTR. SUBSTANCE.	H	Re-ref Com On Judiciary III	05-18-09	07-01-09
S0198	Vernon Malone	STATE BD. OF EDUC./ MEMBERSHIP RESTRICTIONS.	*HR	Ch. SL 2009-2	02-24-09	02-25-09
S0208=	Katie G. Dorsett	PEOPLE FIRST.	*HR	Ch. SL 2009-264	04-14-09	06-17-09

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Bill	Introducer	Short Title		Latest Action	In Date	Out Date
^^332=	Peter S. Brunste	ZOO AND ZOO FUNDS MODIFICATIONS.	*HR	Ch. SL 2009-329	03-26-09	05-20-09
_ _385	John Snow	MACON SUBDIVISIONS.	*HR	Ch. SL 2009-33	04-08-09	05-20-09
S0388	Daniel G. Clodfe	MODIFY RENEWABLE ENERGY PROPERTY CREDIT.	*HR	Ch. SL 2010-4	05-18-09	07-02-09
S0484=	Daniel G. Clodfe	AUDITOR EX OFFICIO DUTIES.	HR	Ch. SL 2009-136	04-06-09	05-26-09
S0514	Daniel G. Clodfe	MAGISTRATES PROVIDE APPOINTMENT OF COUNSEL.	*HR	Ch. SL 2009-419	05-21-09	06-23-09
S0658	Bob Atwater	MODIFY SUPP. RETIREMENT BOARD/ FURLOUGHS.	*HR	Ch. SL 2009-378	05-19-09	06-17-09
S0686	Tony Foriest	ELECTRONIC REPORTING OF ABANDONED PROPERTY.	H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary I	05-14-09	
S0691=	Katie G. Dorsett	TAX INFO DISCLOSURE TO STATE TREASURER.	*HR	Ch. SL 2009-283	05-04-09	05-20-09
S0712	Neal Hunt	STATE SURPLUS PROPERTY/ NEW RECIPIENT.	H	Re-ref Com On State Government/ State Personnel	05-13-09	
S0800	Tony Rand	ALLOW UNPAID INVESTIGATORY SUSPENSIONS/DHHS.	*H	Ref to the Com on State Government/ State Personnel, if favorable, Judiciary III	05-07-09	
`328=	Clark Jenkins	BIDDING PROCESS CHANGES/MAINTENANCE AND OP.	*HR	Ch. SL 2009-266	06-04-09	06-24-09
S0863=	Philip E. Berger	PURCHASE SERVICE/ CERTAIN EMPLOYMENT.	*HR	Ch. SL 2009-392	04-30-09	05-26-09
S0978	Stan Bingham	FIREARMS QUALIFY SITES/EXPAND COMMSN. POWERS.	*HR	Ch. SL 2009-546	05-18-09	07-08-09
S0986=	Floyd B. McKissi	CLARIFY LOCAL SPECIAL SEPARATION ALLOWANCE.	*H	Re-ref Com On Pensions and Retirement	05-14-09	07-01-09
S0992	Don Davis	PYROTECHNICS OPERATOR'S LICENSE.	*HR	Ch. SL 2010-22	05-19-09	06-09-10
S1021=	Josh Stein	PROPERTY FINDERS.	*HR	Ch. SL 2009-312	05-18-09	05-27-09
S1213=	Daniel G. Clodfe	AMEND STATE PURCHASES & CONTRACTS LAWS.	*H	Pres. To Gov. 7/9/ 2010	06-29-10	07-06-10
S1263=	John Snow	BREVARD CHARTER AMENDMENT.	H	Ref To Com On State Government/ State Personnel	06-14-10	
S1323=	Richard Stevens	AMEND SEAA BOARD MEMBERSHIP.	HR	Ch. SL 2010-109	06-29-10	06-29-10
S1332	Floyd B. McKissi	SPAY/NEUTER PROGRAM TRANSFER.	*H	Re-ref Com On Finance	06-22-10	06-24-10
S1386	Don East	GOVERNMENT EMPLOYEES PORT BENEFITS.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	06-21-10	06-29-10

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HOUSE COMMITTEE ON STATE GOVERNMENT/STATE PERSONNEL
2009-2010

MEMBER	ASSISTANT	PHONE	OFFICE	SEAT
WILKINS, Winkie, Chair	Nancy Brantley Committee Assistant	715-0850	1301	71
GILL, Rosa, V-Chair	Valerie Rustin	733-5880	1305	79
JACKSON, Darren, V-Chair	Angela McMillan	733-5974	301N	92
MOBLEY, Annie, V-Chair	Veronica Green	733-5780	638	68
BURR, Justin	Dina Long	733-5908	1315	100
HEAGARTY, Chris	Ruth Merkle	733-5602	2121	108
JUSTUS, Carolyn	Jo Hinton	733-5956	1023	27
KILLIAN, Richard	Jan Copeland	733-5886	1010	88
MACKEY, Nick	Latasha McPhaul	733-5606	403	94
RANDLEMAN, Shirley	James White	733-5935	1025	115
SAGER, Efton	Shirley Winstead	733-5755	508	118
SUTTON, Ron	Jo Bobbitt	715-0875	1321	72
WILEY, Laura	Edna Pearce	733-5877	513	76
WOMBLE, Larry	Dorothy McLean	733-5777	534	56
YONGUE, Douglas	Katie Stanley	733-5821	2207	1

Staff:

Karen Cochrane-Brown	733-2578	545
Theresa Matula	733-2578	545
Shirley Iorio	733-2578	545

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/STATE PERSONNEL
2009-2010 SESSION



Rep. Winkie Wilkins
Chair



Rep. Rosa Gill
Vice chair



Rep. Darren Jackson
Vice chair



Rep. Annie Mobley
Vice chair



Rep. Chris Heagarty



Rep. Justin Burr



Rep. Carolyn Justus



Rep. Ric Killian



Rep. Nick Mackey



Rep. Shirley Randleman



Rep. Efton Sager



Rep. Ron Sutton



Rep. Laura Wiley



Rep. Larry Womble



Rep. Douglas Yongue

ATTENDANCE

State Government/State Personnel Committee

DATES	5/25/10	6/1/10	6/8/10	6/10/10	6/15/10	6/22/10	6/29/10	7/6/10							
Rep. Winkie Wilkins, Chair	✓	✓	✓	✓	✓	✓	✓	✓							
Rep. Rosa Gill, V-Chair		✓	✓	✓	✓	✓	✓	✓							
Rep. Darren Jackson, V-Chair			✓	✓	✓	✓		✓							
Rep. Annie Mobley, V-Chair	✓	✓	✓	✓	✓	✓	✓	✓							
Rep. Justin Burr	✓	✓	✓	✓	✓	✓	✓								
Rep. Chris Heagarty	✓	✓	✓	✓	✓	✓	✓	✓							
Rep. Carolyn Justus	✓	✓	✓	✓	✓	✓	✓	✓							
Rep. Richard Killian	✓	✓			✓										
Rep. Nick Mackey	✓														
Rep. Shirley Randleman	✓	✓	✓	✓	✓	✓	✓	✓							
Rep. Efton Sager	✓	✓	✓	✓	✓	✓	✓								
Rep. Ron Sutton	✓	✓	✓	✓		✓		✓							
Rep. Laura Wiley	✓	✓	✓	✓	✓	✓	✓	✓							
Rep. Larry Womble		✓	✓	✓	✓	✓	✓	✓							
Rep. Douglas Yongue			✓												
Staff:															
Karen Cochrane-Brown	✓	✓	✓	✓	✓	✓	✓	✓							
Theresa Matula	✓	✓	✓	✓	✓	✓	✓	✓							
Shirley Iorio	✓	✓	✓	✓	✓	✓	✓	✓							

Minutes
House Committee on State Government/State Personnel
Tuesday, May 25, 2010

The House Committee on State Government/State Personnel met on Tuesday, May 25, 2010, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chair Mobley and Representatives Burr, Heagarty, Justus, Killian, Mackey, Randleman, Sager, Sutton and Wiley. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Trey Rales, Touissant Avent and Earl Coker. Pages for the meeting included Kenya Smith of Johnston County, sponsored by Speaker Hackney; Kathryn Horrell of Harnett County, sponsored by Representative Lewis; Victoria Pait of Bladen County, sponsored by Representative Brisson; and Dakota Boyd of Johnston County, sponsored by Representative Langdon.

The following bill was considered by the committee:

HB 1863, Reed Gold Mine Revolving Fund. The bill's sponsor, Representative Johnson, explained that the bill establishes the Reed Gold Mine Fund to be used for the operation, interpretation, maintenance, preservation, development, and expansion of the Mine. Following discussion, Representative Burr moved for a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations. The motion carried.

There being no further business to discuss, Chairman Wilkins adjourned the meeting at 2:30 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1863 A BILL TO BE ENTITLED AN ACT ESTABLISHING THE REED GOLD MINE FUND IN THE DIVISION OF STATE HISTORIC SITES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, May 25, 2010
2:00 PM
Room 424, LB

I. Agenda Items

HB 1863 Reed Gold Mine Revolving Fund
Representatives Johnson and Barnhart

II. Discussion

III. Adjourn

HOUSE BILL 1863*

Short Title:	Reed Gold Mine Revolving Fund.	(Public)
Sponsors:	Representatives Johnson, Barnhart (Primary Sponsors); and Dockham.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT ESTABLISHING THE REED GOLD MINE FUND IN THE DIVISION OF STATE HISTORIC SITES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 1 of Chapter 121 of the General Statutes is amended by adding a new section to read:

"**§ 121-7.6. Reed Gold Mine Fund.**

(a) Fund. – The Reed Gold Mine Fund is created as a special fund in the Department of Cultural Resources, Division of State Historic Sites. The interest earned by the Fund shall be credited to the Fund by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3. The Fund shall be used for operation, interpretation, maintenance, preservation, development, and expansion at the Reed Gold Mine State Historic Site.

(b) Disposition of Fees. – Notwithstanding Chapter 146 of the General Statutes, all receipts derived from admissions, fees, and donations, as well as the lease, rental, or other disposition of structures or products of the land owned by or under the supervision or control of the Division of Historic Sites in Cabarrus County shall be credited to the Fund.

(c) The monies credited to this Fund pursuant to this section are annually appropriated to the Department of Cultural Resources."

SECTION 2. This act becomes effective July 1, 2010.

HOUSE BILL 1863:
Reed Gold Mine Revolving Fund

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	May 21, 2010
Introduced by:	Reps. Johnson, Barnhart	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	First Edition		

SUMMARY: House Bill 1863 establishes the Reed Gold Mine Fund to be used for the operation, interpretation, maintenance, preservation, development, and expansion of the Mine.

[As introduced, this bill was identical to S1252, as introduced by Sen. Hartsell, which is currently in Senate Finance.]

On 5/13/09, the H. State Government/State Personnel Committee approved a PCS for HB 949 which is identical to HB 1863. HB 949 was referred to H. Finance.

BILL ANALYSIS:

House Bill 1863 amends Chapter 121 of the General Statutes to establish a new section (G.S. 121-7.6) pertaining to the Reed Gold Mind Fund. G.S. 121-7.6 creates the Reed Gold Mine Fund as a special fund in the Department of Cultural Resources, Division of Historic Sites. The fund is to be used for operation, interpretation, maintenance, preservation, development, and expansion of the Reed Gold Mine State Historic Site.

G.S. 121-7.6(b) requires that all receipts from admissions, fees, donations, as well as the lease, rental, or other disposition of structures or products of the land owned by or under the supervision of the Division of Historic Sites in Cabarrus County be credited to the Fund.

G.S. 121-7.6(c) specifies that monies credited to the Fund are annually appropriated to the Department of Cultural Resources.

EFFECTIVE DATE:

House Bill 1863 would become effective July 1, 2010.

BACKGROUND:

According to the Department of Cultural Resources's Web site (www.nchistoricsites.org), the "Reed Gold Mine is the site of the first documented gold find in the United States."

H1863-SMSH-165(e1) v2

VISITOR REGISTRATION SHEET

State Govt/State Personnel — 5-25-10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Keith Karlsson	Rep Heagarty - Intern
Jem V. Griffith	Intern for Heagarty
Melanie Sloan	DCR
Ardis Watkins	SEPNC
Suzanne Beasley	SEANC
Chuck Stone	SEANC
Josh A. Mobley	Intern Rep Mobley

Minutes
House Committee on State Government/State Personnel
Tuesday, June 1, 2010

The House Committee on State Government/State Personnel met on Tuesday, June 1, 2010, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Gill and Mobley and Representatives Burr, Heagarty, Justus, Killian, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Bill Bass and Frank Prevo. Pages for the meeting included Ryan Byrd of Martin County, sponsored by Representative Edith Warren; Darius Williams of Beaufort, sponsored by Representative Wainwright; Joshua Mack of Forsyth County, sponsored by Representative Womble; and Molly Brewer of Transylvania, sponsored by Representative Guice.

The committee heard the following bill:

HB 1852, Nonprofit Grants/Increase Accountability. By motion of Representative Killian, the proposed committee substitute (PCS) was adopted for discussion. Representative Cole was recognized to explain the bill, which was created to improve the oversight of state grants to non-state entities and to increase the accountability of grantees who receive state grants, as recommended by the Joint Legislative Program Evaluation Oversight Committee. The PCS would add additional requirements to the policies and procedures established by the Office of State Budget and Management (OSBM). Carol Ripple from the Program Evaluation Division, Rose Williams from the Department of Insurance, and Tim Bradley, State Assistant Fire Marshall, spoke on the bill and answered questions from the committee members. Representative Sutton offered a clarifying amendment and moved for its adoption, which carried. Representative Killian then moved for a favorable report as to the PCS, which changed the title, unfavorable as to the original bill, and recommended that the PCS be re-referred to the Committee on Judiciary II. The motion was adopted.

The Committee was adjourned at 2:45 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1852 A BILL TO BE ENTITLED AN ACT TO IMPROVE THE OVERSIGHT OF STATE GRANTS TO NON-STATE ENTITIES AND TO INCREASE THE ACCOUNTABILITY OF GRANTEES WHO RECEIVE STATE GRANTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

☒ With a favorable report as to the committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on JUDICIARY II.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, June 1, 2010
2:00 PM
Room 424, LB

I. Agenda Items

HB 1852 Nonprofit Grants/Increase Accountability
Representatives Cole and Crawford, Jr.

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1852*
PROPOSED COMMITTEE SUBSTITUTE H1852-PCS50926-SH-71

Short Title: Nonprofit Grants/Increase Accountability. (Public)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE OVERSIGHT OF STATE GRANTS TO NON-STATE ENTITIES AND TO INCREASE THE ACCOUNTABILITY OF GRANTEES WHO RECEIVE STATE GRANTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE, AND ALSO TO PROVIDE OVERSIGHT AND ACCOUNTABILITY OF CERTAIN GRANT AWARDS BY ALLOWING ON-SITE EXAMINATIONS OF FIRE, RESCUE, AND EMS EQUIPMENT AND SUPPLIES PURCHASED WITH THOSE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143C-6-23 reads as rewritten:

"**§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.**

(a) Definitions. – The following definitions apply in this section:

(1) ~~"Grant" and "grant funds" means~~ Grant and grant funds. – State funds disbursed as a grant by a State ~~agency; however, the~~ agency. These terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.

(2) ~~"Grantee" means a~~ Grantee. – A non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(3) ~~"Subgrantee" means a~~ Subgrantee. – A non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(b) Conflict of Interest Policy. – Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. – The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

(1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.

(2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.

(2a) Require each contract that awards a grant to include all of the following:

a. Concrete, measurable benchmarks against which to measure success. The benchmarks shall address the expected quantifiable outputs and outcomes.

b. Identification of program performance measures that will be used to compare quantifiable outputs and outcomes against the benchmarks established in contracts pursuant to this subdivision.

c. For purposes of this subdivision, the term "output" means quantified activities performed by the grantee and the term "outcome" means what happens as a result of the grantee's activities.

(3) Ensure that State funds are spent in accordance with the purposes for which they were granted.

(4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.

(5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds.

(5a) Establish the criteria for grants from which oversight costs may be withheld by a State agency pursuant to subsection (f1) of this section.

(5b) Provide procedures for the determination of the amount of a grant that may be withheld for administrative costs pursuant to subsection (f1) of this section.

(6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial ~~and program performance~~ information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.

(6a) Establish mandatory periodic reporting requirements for grantees and subgrantees, including reporting on benchmarks set out in the contract

awarding the grant pursuant to subdivision (2a) of this subsection by means of performance measures identified in the contract. Performance reporting shall be reviewed by the State agency overseeing the grant on an ongoing basis. The State agency overseeing the grant shall submit an annual performance report to the Office of State Budget and Management.

(7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.

(8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.

(9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.

(9a) Require a State agency that oversees a grant program to develop a monitoring plan for that program. The State agency shall provide a description of its monitoring plan and any additional information regarding that plan to the Office of State Budget and Management.

(10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.

(11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.

(12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. In addition, the Office of the Controller shall electronically stop payments to a grantee upon notification by the Office of State Budget and Management to suspend disbursement of funds to the grantee.

If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

(f1) Withholding From Certain Grants to Cover Agency Oversight Costs. – A State agency that oversees a grant may withhold up to two percent (2%) of the amount of the grant awarded each fiscal year to cover grant oversight costs pursuant to this subsection if the grant satisfies the criteria established by the Office of State Budget and Management. No State agency shall withhold funds under this subsection until the State agency submits a written request to the Office of State Budget and Management that sets out the oversight responsibilities of the agency with regard to the grant, the amount that the agency is requesting to withhold from the grant for the fiscal year, and receives approval from the Office of State

Budget and Management to withhold funds to cover the oversight costs. An agency may withhold only the amount approved by the Office of State Budget and Management. The Office of State Budget and Management shall determine whether it is appropriate to allow the withholding under this section, and if so, the amount the may be withheld by the State agency. The Office of State Budget and Management shall notify the State agency in writing of the approval or disapproval of the request, and if approved, the amount that may be withheld.

If a State agency does receive approval under this section to withhold a percentage of the amount of the grant awarded, then the agency shall reserve twenty-five percent (25%) of the amount authorized by the Office of State Budget and Management to be withheld by the agency and shall transfer those funds to the Office of State Budget and Management at the time the grant funds are disbursed. The Office of State Budget and Management shall use the funds transferred from the agency to cover costs related to statewide oversight of grants to non-State entities.

Funds shall not be withheld under this subsection for the purpose of covering oversight costs if the grant is a pass-through of funds granted by an agency of the United States and the terms of the federal grant prohibit the withholding of funds described by this subsection.

(g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.

(h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.

(i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section."

SECTION 2. G.S. 143C-6-23(d), as amended by Section 1 of this act, is amended by adding a new subdivision to read:

"(7a) Require grantees to submit cash-basis reporting within 90 days of the end of the State fiscal year."

SECTION 3. Article 87 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-87-7. Oversight and accountability of grant awards.**

To increase accountability and to expedite receipt of certain grant awards, notwithstanding any other provision, the Office of the State Fire Marshal and other employees of the Department of Insurance may in their discretion conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with funds awarded from either the Volunteer Fire Department Fund or the Volunteer Rescue/EMS Fund. The on-site examinations may include the inspection of equipment purchased from prior grants and may be conducted prior to or simultaneous with the delivery of the grant awards. The on-site examination shall document what equipment and supplies have been purchased by the volunteer fire department or volunteer rescue/EMS department and whether those items were received by the department

and visually reviewed by the on-site examiner. Items that have already been distributed or put in the field shall be noted by the on-site examiner. The Office of the State Fire Marshal shall maintain records of on-site inspections and provide them, or a summary thereof, in reports to the State Auditor or the Office of State Budget and Management."

SECTION 4. Section 2 of this act becomes effective July 1, 2012. The remainder of this act becomes effective July 1, 2010.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1852*

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

H1852-ASF-41 [v.1]

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

Date _____,2010

Representative _____

moves to amend the bill on page 4, line 8, by deleting the phrase "one-half of one percent (.5%)" and substituting the phrase "twenty-five percent (25%)".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1852*
PROPOSED COMMITTEE SUBSTITUTE H1852-CSSH-71 [v.3]

6/1/2010 12:27:41 PM

Short Title: Nonprofit Grants/Increase Accountability. (Public)

Sponsors:

Referred to:

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE OVERSIGHT OF STATE GRANTS TO NON-STATE ENTITIES AND TO INCREASE THE ACCOUNTABILITY OF GRANTEES WHO RECEIVE STATE GRANTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE, AND ALSO TO PROVIDE OVERSIGHT AND ACCOUNTABILITY OF CERTAIN GRANT AWARDS BY ALLOWING ON-SITE EXAMINATIONS OF FIRE, RESCUE, AND EMS EQUIPMENT AND SUPPLIES PURCHASED WITH THOSE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143C-6-23 reads as rewritten:

"**§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.**

(a) Definitions. – The following definitions apply in this section:

(1) ~~"Grant" and "grant funds" means~~ Grant and grant funds. – State funds disbursed as a grant by a State ~~agency; however, the~~ agency. These terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.

(2) ~~"Grantee" means a~~ Grantee. – A non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(3) ~~"Subgrantee" means a~~ Subgrantee – A non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(b) Conflict of Interest Policy. – Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. – The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

(1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.

(2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.

(2a) Require each contract that awards a grant to include all of the following:

a. Concrete, measurable benchmarks against which to measure success. The benchmarks shall address the expected quantifiable outputs and outcomes.

b. Identification of program performance measures that will be used to compare quantifiable outputs and outcomes against the benchmarks established in contracts pursuant to this subdivision.

c. For purposes of this subdivision the term "output" means quantified activities performed by the grantee and the term "outcome" means what happens as a result of the grantee's activities.

(3) Ensure that State funds are spent in accordance with the purposes for which they were granted.

(4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.

(5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds.

(5a) Establish the criteria for grants from which oversight costs may be withheld by a State agency pursuant to subsection (f1) of this section.

(5b) Provide procedures for the determination of the amount of a grant that may be withheld for administrative costs pursuant to subsection (f1) of this section.

(6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial ~~and program performance~~ information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.

(6a) Establish mandatory periodic reporting requirements for grantees and subgrantees, including reporting on benchmarks set out in the contract

awarding the grant pursuant to subdivision (2a) of this subsection by means of performance measures identified in the contract. Performance reporting shall be reviewed by the State agency overseeing the grant on an ongoing basis. The State agency overseeing the grant shall submit an annual performance report to the Office of State Budget and Management.

(7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.

(8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.

(9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.

(9a) Require a State agency that oversees a grant program to develop a monitoring plan for that program. The State agency shall provide a description of its monitoring plan and any additional information regarding that plan to the Office of State Budget and Management.

(10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.

(11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.

(12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. In addition, the Office of the Controller shall electronically stop payments to a grantee upon notification by the Office of State Budget and Management to suspend disbursement of funds to the grantee.

If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

"(f1) Withholding From Certain Grants To Cover Agency Oversight Cost. – A State agency that oversees a grant may withhold up to two percent (2%) of the amount of the grant awarded each fiscal year to cover grant oversight costs pursuant to this subsection if the grant satisfies the criteria established by the Office of State Budget and Management. No State agency shall withhold funds under this subsection until the State agency submits a written request to the Office of State Budget and Management that sets out the oversight responsibilities of the agency with regard to the grant, the amount that the agency is requesting to withhold from the grant for the fiscal year, and receives approval from the Office of State

Budget and Management to withhold funds to cover the oversight costs. An agency may withhold only the amount approved by the Office of State Budget and Management. The Office of State Budget and Management shall determine whether it is appropriate to allow the withholding under this section, and if so, the amount that may be withheld by the State agency. The Office of State Budget and Management shall notify the State agency in writing of the approval or disapproval of the request, and if approved, that amount that may be withheld.

If a State agency does receive approval under this section to withhold a percentage of the amount of the grant awarded, then the agency shall reserve one-half of one percent (.5%) of the amount authorized by State Budget and Management to be withheld by the agency and shall transfer those funds to the Office of State Budget and Management at the time the grant funds are disbursed. The Office of State Budget and Management shall use the funds transferred from the agency to cover costs related to statewide oversight of grants to non-state entities.

Funds shall not be withheld under this subsection for the purpose of covering oversight costs if the grant is a pass-through of funds granted by an agency of the United States and the terms of the federal grant prohibit the withholding of funds described by this subsection."

(g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.

(h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.

(i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section."

SECTION 2. G.S. 143C-6-23(d) as amended by Section 1 of this act is amended by adding a new subdivision to read:

"(7a) Require grantees to submit cash-basis reporting within 90 days of the end of the State fiscal year."

SECTION 3. Article 87 of Chapter 58 is amended by adding a new section to read:

"**§ 58-87-7. Oversight and accountability of grant awards.**

To increase accountability and to expedite receipt of certain grant awards, notwithstanding any other provision, the Office of State Fire Marshal and other employees of the Department of Insurance may in their discretion conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with funds awarded from either the Volunteer Fire Department Fund, or the Volunteer Rescue/EMS Fund. The on-site examinations may include the inspection of equipment purchased from prior grants and may be conducted prior to or simultaneous with the delivery of the grant awards. The on-site examination shall document what equipment and supplies have been purchased by the volunteer fire department or volunteer rescue/EMS department and whether those items were received by the department and visually reviewed by the on-site examiner. Items that have already been distributed or put in the field shall be noted by the on-site examiner. The Office of State Fire Marshal shall

maintain records of on-site inspections, and provide them, or a summary thereof, in reports to the State Auditor or the Office of State Budget and Management."

SECTION 4. Section 2 of this act becomes effective July 1, 2012. The remainder of this act becomes effective July 1, 2010.

HOUSE BILL 1852:
Nonprofit Grants/Increase Accountability

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary II	**Date:**	June 1, 2010
Introduced by:	Reps. Cole, Crawford	**Prepared by:**	Shirley Iorio, PhD
Analysis of:	PCS to First Edition H1852-CSSH-71		Legislative Analyst

SUMMARY: ***The Proposed Committee Substitute (PCS) to House Bill 1852 would add additional requirements to the policies and procedures established by the Office of State Budget and Management (OSBM) for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. These new requirements would improve the oversight of State grants to non-State entities and would increase the accountability of grantees who receive State grants.***

To increase accountability and to expedite certain grant awards, the PCS would allow the Office of State Fire Marshal and other employees of the Department of Insurance to conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with certain funds.

The provisions above would become effective July 1, 2010.

The PCS would also require grantees to submit cash-basis reporting within 90 days of the end of the State fiscal year. This provision would become effective July 1, 2012.

Sections 1 and 2 of the PCS for House Bill 1852 are recommendations of the Joint Legislative Program Evaluation Oversight Committee. The PCS adds Section 3.

[As introduced, this bill was identical to S1218, as introduced by Sen. Hartsell, which is currently in Senate Appropriations/Base Budget.]

CURRENT LAW: G.S. 143C-6-23 provides for administration, oversight and reporting requirements for State grant funds to non-State entities. The Office of State Budget and Management, in consultation with the Office of the State Auditor and the Attorney General, is required to adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The North Carolina Administrative Code, Title 9, Subchapter 03M (09 NCAC 03M .0100 -.0800) contains those rules.

Article 87, Volunteer Safety Workers Assistance, in Chapter 58 of the North Carolina General Statutes, contains provisions pertaining to the Volunteer Fire Department Fund and the Volunteer Rescue/EMS Fund. The Volunteer Fire Department Fund (G.S. 58-87-1) and the Volunteer Rescue/EMS Fund (G.S. 58-87-5) provide matching grants to volunteer fire departments and volunteer rescue units to purchase equipment and make capital improvements.

BILL ANALYSIS: Section 1 would add the following requirements to the policies and procedures established by the Office of State Budget and Management (OSBM) for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees:

- Each contract that awards a grant must include concrete, measurable benchmarks against which to measure success and must identify program performance measures that will be used to compare quantifiable outputs and outcomes against the established benchmarks.
- Criteria must be established for grants from which oversight costs may be withheld by a State agency, and procedures must be provided to determine the amount of a grant that may be withheld for administrative costs.
- Mandatory periodic reporting requirements must be established for grantees and subgrantees, including reporting on benchmarks and performance measures set out in the contract awarding the grant. The State

agency overseeing the grant must review the performance reports on an ongoing basis and submit an annual performance report to OSBM.

- A State agency that oversees a grant program must develop a monitoring plan for that program and provide a description of its monitoring plan and any additional information regarding that plan to OSBM.

OSBM currently has the authority to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with the rules. The PCS for HB 1852 would require the Office of the Controller to electronically stop payments to a grantee upon notification by OSBM to suspend disbursement of funds to the grantee.

The PCS would allow a State agency that oversees a grant to withhold up to two percent (2%) of the amount of the grant awarded each fiscal year to cover grant oversight costs if the grant satisfies the criteria established by OSBM. The State agency would submit a written request to OSBM that sets out the oversight responsibilities of the agency with regard to the grant and the amount that the agency is requesting to withhold from the grant for the fiscal year. After determining whether or not it is appropriate to allow the withholding, OSBM would notify the State agency in writing of the approval or disapproval of the request.

If a State agency receives approval to withhold a percentage of the amount of the grant awarded, then the agency must reserve one-half of one percent (.5%) of the amount authorized by OSBM to be withheld by the agency and must transfer those funds to OSBM at the time the grant funds are disbursed. OSBM would use the funds transferred from the agency to cover costs related to statewide oversight of grants to non-State entities.

Funds cannot be withheld if the grant is pass-through funding from the federal government and the terms of the federal grant prohibit the withholding of funds to cover grant oversight costs.

Section 2 would require grantees to submit cash-basis reporting within 90 days of the end of the State fiscal year. This new procedure would replace the current requirement for grantees to submit annual reports within six to nine months of each grantee's fiscal-year end, would reduce the lag between disbursement and reporting, and would provide consistent, State-wide data on State grants to non-profits.

Section 3 would allow the Office of State Fire Marshal and other employees of the Department of Insurance to conduct on-site examinations of fire, rescue and EMS equipment and supplies purchased with funds awarded from either the Volunteer Fire Department Fund or the Volunteer Rescue/EMS Fund. The PCS would also require the Office of State Fire Marshal to maintain records of the on-site inspections and to provide reports to the State Auditor or OSBM.

EFFECTIVE DATE: Section 2 would become effective July 1, 2012. The remainder of the act would become effective July 1, 2010.

BACKGROUND: The Program Evaluation Division of the NC General Assembly reviewed practices and policies regarding oversight of State grants to non-profit organizations. Their study examined whether current oversight provides assurance that public resources are spent in the way intended by the State. Findings from this review indicated that the current administrative rules and statutes that were intended to assure accountability for non-profit grants were not sufficient and that statutes and rules should be changed to strengthen accountability and focus on performance.

In November, 2009, the Program Evaluation Division presented their report, *Accountability Gaps Limit State Oversight of $694 Million in Grants to Non-Profit Organizations*, to the Joint Legislative Program Evaluation Oversight Committee. House Bill 1852 is a recommendation of that Committee.

HOUSE BILL 1852*

Short Title:	Nonprofit Grants/Increase Accountability.	(Public)
Sponsors:	Representatives Cole, Crawford (Primary Sponsors); Farmer-Butterfield, Glazier, Hughes, Insko, and Spear.	
Referred to:	State Government/State Personnel, if favorable, Judiciary II.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE OVERSIGHT OF STATE GRANTS TO NON-STATE ENTITIES AND TO INCREASE THE ACCOUNTABILITY OF GRANTEES WHO RECEIVE STATE GRANTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143C-6-23 reads as rewritten:

"**§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.**

(a) Definitions. – The following definitions apply in this section:

(1) "Grant" and "grant funds" means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.

(2) "Grantee" means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(3) "Subgrantee" means a non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(b) Conflict of Interest Policy. – Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

(d) Office of State Budget Rules Must Require Uniform Administration of State Grants. – The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:

(1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.

(2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.

(2a) Require each contract that awards a grant to include all of the following:

a. Concrete, measurable benchmarks against which to measure success. The benchmarks shall address the expected quantifiable outputs and outcomes.

b. Identification of program performance measures that will be used to compare quantifiable outputs and outcomes against the benchmarks established in contracts pursuant to this subdivision.

c. For purposes of this subdivision the term "output" means quantified activities performed by the grantee and the term "outcome" means what happens as a result of the grantee's activities.

(3) Ensure that State funds are spent in accordance with the purposes for which they were granted.

(4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.

(5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds.

(5a) Establish the criteria for grants from which oversight costs may be withheld by a State agency pursuant to subsection (f1) of this section.

(5b) Provide procedures for the determination of the amount of a grant that may be withheld for administrative costs pursuant to subsection (f1) of this section.

(6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial ~~and program performance~~ information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.

(6a) Establish mandatory periodic reporting requirements for grantees and subgrantees, including reporting on benchmarks set out in the contract awarding the grant pursuant to subdivision (2a) of this subsection by means of performance measures identified in the contract. Performance reporting shall be reviewed by the State agency overseeing the grant on an ongoing basis. The State agency overseeing the grant shall submit an annual performance report to the Office of State Budget and Management.

(7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to

make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.

(8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.

(9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.

(9a) Require a State agency that oversees a grant program to develop a monitoring plan for that program. The State agency shall provide a description of its monitoring plan and any additional information regarding that plan to the Office of State Budget and Management.

(10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.

(11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.

(12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. In addition, the Office of the Controller shall electronically stop payments to a grantee upon notification by the Office of State Budget and Management to suspend disbursement of funds to the grantee.

If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

"(f1) Withholding From Certain Grants To Cover Agency Oversight Cost. – A State agency that oversees a grant may withhold up to two percent (2%) of the amount of the grant awarded each fiscal year to cover grant oversight costs pursuant to this subsection if the grant satisfies the criteria established by the Office of State Budget and Management. No State agency shall withhold funds under this subsection until the State agency submits a written request to the Office of State Budget and Management that sets out the oversight responsibilities of the agency with regard to the grant, the amount that the agency is requesting to withhold from the grant for the fiscal year, and receives approval from the Office of State Budget and Management to withhold funds to cover the oversight costs. An agency may withhold only the amount approved by the Office of State Budget and Management. The Office of State Budget and Management shall determine whether it is appropriate to allow the withholding under this section, and if so, the amount that may be withheld by the State agency. The Office of State Budget and Management shall notify the State agency in writing of the approval or disapproval of the request, and if approved, that amount that may be withheld.

If a State agency does receive approval under this section to withhold a percentage of the amount of the grant awarded, then the agency shall reserve one-half of one percent (.5%) of the amount authorized by State Budget and Management to be withheld by the agency and shall transfer those funds to the Office of State Budget and Management at the time the grant funds are disbursed. The Office of State Budget and Management shall use the funds transferred from the agency to cover costs related to statewide oversight of grants to non-state entities.

Funds shall not be withheld under this subsection for the purpose of covering oversight costs if the grant is a pass-through of funds granted by an agency of the United States and the terms of the federal grant prohibit the withholding of funds described by this subsection."

(g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.

(h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.

(i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section."

SECTION 2. G.S. 143C-6-23(d) as amended by Section 1 of this act is amended by adding a new subdivision to read:

"(7a) Require grantees to submit cash-basis reporting within 90 days of the end of the State fiscal year."

SECTION 3. Section 2 of this act becomes effective July 1, 2012. The remainder of this act becomes effective July 1, 2010.

VISITOR REGISTRATION SHEET

STATE GOV'T / STATE PERSONNEL 6HD

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Wesley H. Walters	Governor's Crime Commission
Chris Hawthorne	
Evelyn Hawthorne	EHGR
Joe Janicki	NMRS
Brian Dempsey	MWC
Ken Wyatt	BCBSNC
Alice Garland	NCEL
Dennis Patterson	OSA
Carol Ripple	Program Evaluation Division
John Turcotte	
Lad Rubbert	COPC
Susan Perry Cole	NC ASSN. of COCs

VISITOR REGISTRATION SHEET

STATE GOV'T. & STATE PERSONNEL 6-1-10

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brigette Rasberry	NCACDC
Carl Dean	OSP
Chris Agner	DOA
'ark Lanier	UNCW
Jim Kelly	[illegible]
Mark Fleming	BCBSNC
Grant Pair	NCDCR
Mary Boone	NCDCR
Melanie Soler	DCR
Mark Edwards	NC DOI
Rose Williams	NCDOI

VISITOR REGISTRATION SHEET

State Gov't / State Personnel — 6-1-10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
TIM BRADLEY	NC DOI
Neil Woodcock	NC Assoc for Property + Evidence
Joi Mobley	Intern (Rep. Mobley)
Martha Brock	NC mental Hope, Inc (non-profit)
Jenny Palmer	Wake Teen Medical Services (Non profit)
Chuck Stone	SEANC
Andie Walters	SEANC
Suzanne Bailey	SEANC
Jim Johnson	BSA
David Heinen	NC Center for Nonprofits
[illegible]	NCICU

VISITOR REGISTRATION SHEET

State Govt / State Personnel — 6-1-10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Keith Karlsson	Rep Heagarty - Intern
Jem Griffith	Representative Chris Heagarty - Intern
Lori Ann Harris	LHHA
Patrick J. Gavey	ARPCNC + LLPP

Minutes
House Committee on State Government/State Personnel
Tuesday, June 8, 2010

The House Committee on State Government/State Personnel met on Tuesday, June 8, 2010, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Gill, Jackson and Mobley; and Representatives Heagarty, Burr, Justus, Randleman, Sager, Sutton, Wiley, Womble and Yongue.

Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms Marvin Lee, John Brandon and Young Bae. Pages for the meeting were Torin Saccoccio of Wake County, sponsored by Representative Martin; Sasha Seymore of Craven County, sponsored by Representative Underhill; Elise McDow from New Hanover County, sponsored by Representative Hughes; and Perry Williams III from Wake County, sponsored by Speaker Hackney.

The following bills were considered:

HB 1823, Sell Underutilized State Aircraft. Representative Cole explained that, based on a recommendation from the Joint Legislative Program Evaluation Oversight Committee, the bill requires the sale of certain State aircraft, a corresponding reduction in Personnel, the elimination of leases for the aircraft hangers, and the appropriation of $51,000 to contract for additional aircraft to support fire protection. Ms. Moga Bryant, Senior Program Evaluator with the Program Evaluation Division, explained the basis upon which those recommendations were made. Following discussion of the bill, Representative Mobley moved for a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations. The motion was adopted.

SB 992, Pyrotechnics Operator's License. By motion of Representative Burr, the House PCS was adopted for discussion. The PCS amends and clarifies the Pyrotechnics Training and Permitting Act to require that pyrotechnic display operators and their assistants obtain a license from the Commissioner of Insurance. Sen. Davis explained the bill. Rose Williams and Rob Roegner of the N.C. Department of Insurance answered some of the questions brought up by the committee members. Representative Sutton moved for a favorable report as to the House PCS, which changes the title, unfavorable as to the original bill, and recommendation that the House PCS be re-referred to the Committee on Judiciary I. The motion was adopted.

Respectfully submitted,

Representative Winkie Wilkins
Chair

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1823 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE SALE OF CERTAIN UNDERUTILIZED STATE AIRCRAFT, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE OF THE NORTH CAROLINA GENERAL ASSEMBLY.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on APPROPRIATIONS.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

SB 992 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE MAYORS TO SOLEMNIZE MARRIAGES IF AUTHORIZED BY LOCAL ORDINANCE.

☒ With a favorable report as to the House committee substitute bill, which changes the title, unfavorable as to the original bill, and recommendation that the House committee substitute bill be re-referred to the Committee on JUDICIARY I.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, June 8, 2010
2:00 PM
Room 424, LB

I. Agenda Items

HB 1823 Sell Underutilized State Aircraft
Representatives Crawford, Jr., Cole and Hall

SB 992 Authorize Mayors to Solemnize Marriage
Senator Davis

II. Discussion

III. Adjourn

HOUSE BILL 1823

Short Title:	Sell Underutilized State Aircraft.	(Public)
Sponsors:	Representatives Crawford, Cole, Hall (Primary Sponsors); M. Alexander, Dockham, Faison, Gill, Glazier, Goforth, Gulley, Harrison, Hughes, Justice, Langdon, Lucas, McLawhorn, Spear, Tarleton, and Whilden.	
Referred to:	State Government/State Personnel, if favorable, Appropriations.	

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE SALE OF CERTAIN UNDERUTILIZED STATE AIRCRAFT, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE OF THE NORTH CAROLINA GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. State agencies that own aircraft proposed for elimination in Exhibit 15 of the Program Evaluation Division's report entitled "Selling 25 Underutilitzed Aircraft May Yield Up to $8.1 Million and Save $1.5 Million Annually" (Report 2010-04), shall eliminate those aircraft as soon as practicable and shall reduce personnel accordingly. Affected agencies may designate the particular aircraft to be eliminated so long as the number of aircraft proposed for elimination by the report are in fact eliminated.

Aircraft to be eliminated pursuant to this section that can be sold shall be sold by the affected agency as soon as practicable. The net proceeds from the sales and reductions required by this section shall be remitted to the State Treasurer for deposit into the General Fund.

Aircraft to be eliminated pursuant to this section that cannot be sold because of restrictions contained in federal law or agreements with the federal government shall cease to be used by the State agency, which shall arrange for their disposal in the most economically beneficial manner available to the State that satisfies any applicable restrictions.

SECTION 2. The Division of Forest Resources of the Department of Environment and Natural Resources shall terminate leases for, or appraise and sell, the five hangars selected for elimination in Exhibit 17 of the Program Evaluation Division's report entitled "Selling 25 Underutilitzed Aircraft May Yield Up to $8.1 Million and Save $1.5 Million Annually" (Report 2010-04) as the sale of aircraft required by Section 1 of this section makes the termination of leases for those facilities feasible. For purposes of this subsection, a lease is terminated if it is allowed to expire and not renewed. Nothing in this subsection requires the termination of a contract existing on the effective date of this subsection unless that contract provides a mechanism for termination that does not constitute a breach of contract.

SECTION 3. There is appropriated from the General Fund to the Division of Forest Resources of the Department of Environment and Natural Resources the sum of fifty-one thousand dollars ($51,000) for the 2010-2011 fiscal year to contract for additional aircraft support for fire protection as needed. It is the intent of the General Assembly that these funds be recurring.

SECTION 4. Section 3 of this act becomes effective October 1, 2011. The remainder of this act is effective when it becomes law.

HOUSE BILL 1823:
Sell Underutilized State Aircraft

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Appropriations	**Date:**	June 4, 2010
Introduced by:	Reps. Crawford, Cole, Hall	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	First Edition		

SUMMARY: House Bill 1823 requires the sale of certain State aircraft, a corresponding reduction in personnel, the elimination of leases for the aircraft hangers, and the appropriation of $51,000 to contract for additional aircraft to support fire protection. This bill was based on a recommendation from the Joint Legislative Program Evaluation Oversight Committee.

BILL ANALYSIS:

Section 1 of House Bill 1823 requires the elimination of aircraft and a corresponding reduction in personnel for certain agencies. The bill directs that the aircraft in Exhibit 15 of Program Evaluation Division's report, "Selling 25 Underutilized Aircraft May Yield Up to $8.1 Million and Save $1.5 Million Annually," be sold as soon as practicable and the net proceeds be remitted to the State Treasurer for deposit into the General Fund. The bill specifies that aircraft that cannot be sold due to restrictions in federal law or agreements with the federal government must cease to be used and the agency must arrange for their disposal in a manner that satisfies any applicable restrictions and is economically beneficial. Exhibit 15 of the report provides the following:

State Program	Number of Aircraft to Be Eliminated	Number of Aircraft to Be Sold	Potential One-Time Proceeds from Sale
Department of Transportation	1	1	$ 4,649,000
Division of Forest Resources	20	7	2,628,500
State Bureau of Investigation	1	1	650,000
Division of Marine Fisheries	3	1	190,000
Total	**25**	**10**	**$ 8,117,500**

Source: Program Evaluation Division based on aircraft specification data from state programs.

The Program Review report provides that in addition to one-time proceeds from the sale, the State could save an estimated $1.5 million in recurring funds related to personnel (salaries and benefits) and operations (insurance and depreciation).

Section 2 of the bill requires the Division of Forest Resources, DENR, to terminate leases for, or appraise and sell, five hangers selected for elimination in Exhibit 17 of the above report as the sale of the aircraft in Section 1 takes place. The section further specifies that a lease is terminated if it is allowed to expire and not renewed. Exhibit 17 of the report provides the following:

Division of Forest Resources Facilities to Eliminate	Annual Costs
Asheville Regional Airport in Fletcher	$ 3,600
Coastal Carolina Airport in New Bern	3,960
Richmond County Airport in Rockingham	4,200
Warren Field Airport in Washington	2,300
Whitfield Airstrip in Fairfield	12,000
	Total $ 26,060

Source: Program Evaluation Division based on cost data provided by state programs.

Section 3 appropriates $51,000 to the Division of Forest Resources, DENR, for the 2010-11 fiscal year to contract for additional aircraft as needed to support fire protection.

Section 3, containing the appropriation, becomes effective October 1, 2011 and the remainder of the act is effective when it becomes law.

BACKGROUND: The House and Senate versions of the budget contain some provisions related to aircraft, however, the full extent of the Program Evaluation Division recommendations are not reflected in the budget. According to fiscal analysts, the aircraft listed in Exhibit 15 for DOT and the SBI were not eliminated in the budget. Both budgets do contain provisions regarding transfer of Commerce's planes to DOT, which is not mentioned in Exhibit 15. The following comparison was provided by Lanier McRee in the Fiscal Research Division.

AIRCRAFT ELIMINATION AND COST SAVINGS

1. **Program Evaluation Division's Recommendations from the Study of State Aircraft**
   - Eliminate unnecessary aircraft in the Divisions of Forest Resource and Marine Fisheries
   - Consolidate the location of Division of Forest Resources aircraft and close five hangars
   - Consolidate all passenger aircraft (Commerce, DOT, & AHEC) into one Aviation Division

2. **House and Senate Budget Actions – Money Report**

	PED	Senate	House
Division of Forest Resources			
Aircraft for Elimination	20	18	10
Pilots for Elimination	9	8	2
Mechanics for Elimination	5	4	1
Hangars Closed	5	5	2
Recurring Savings - Aircraft	$1,011,809	$875,000	$219,000
Nonrecurring Savings - Aircraft	$2,628,500	$2,250,000	$1,000,000
Recurring Savings - Hangars	$26,060	$26,060	$13,060
Division of Marine Fisheries			
Aircraft for Elimination	3	3	3
Pilots for Elimination	0	0	0
Mechanics for Elimination	N/A	N/A	N/A
Expected Recurring Savings	$11,570	$25,218	$25,218
Expected NR Savings	$190,000	$190,000	$35,000

Department of Commerce	PED Recommendation		House & Senate	
	Eliminate	Consolidate	Eliminate	Consolidate
Aircraft	0	2	0	2
Pilots	1	3	1	3
Mechanics	1	1	1	1
Expected Recurring Savings	N/A		$300,000	
Expected NR Savings	$0		$0	

3. **House and Senate Budget Actions – Special Provisions**

Department of Environment & Natural Resources– same in House & Senate
- Directs Forest Resources to provide maintenance for the Marine Fisheries
- Directs DENR to report on aviation activities and implementation of eight management practices recommended in the PED report as well as to report on the recommendations of a Conklin & de Decker report currently being conducted.
- Directs DENR to purchase software for the tracking of flights and maintenance of all aircraft in the Department from funds available through the sale of eliminated aircraft.

Department of Commerce– same in House & Senate
- The Transportation Appropriation Subcommittee provided a special provision on the consolidation of passenger aircraft between Commerce and DOT.

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 992
PROPOSED HOUSE COMMITTEE SUBSTITUTE S992-PCS65076-RO-107

Short Title: Pyrotechnics Operator's License. (Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO AMEND AND CLARIFY THE PYROTECHNICS TRAINING AND PERMITTING ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G. S. 58-82A-1 reads as rewritten:

"**§ 58-82A-1. (Effective February 1, 2010) State Fire Marshal establish pyrotechnic safety guidelines.**

(a) Guidelines. – The Commissioner of Insurance through the Office of State Fire Marshal, in consultation with the State Fire and Rescue Commission, must establish guidelines, testing, and training requirements for the following:

(1) Individuals who assist a display operator with the exhibition, use, handling, or discharge of pyrotechnics in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes.

(2) Individuals seeking to obtain a display operator ~~permit~~ license, proximate audience display operator license, assistant display operator license, or temporary license under this Article.

(b) Definitions. – The definitions in G.S. 14-410 apply in this Article.

(c) Rule making. – The Commissioner may adopt rules to implement this Article."

SECTION 2. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-82A-1A. Definitions.**

The following definitions apply in this Article:

(1) Assistant display operator – means an individual who, under the supervision of the display operator, assists with the safety, setup and discharge of a pyrotechnic display, and who is licensed pursuant to this Article.

(2) Event employee – means an individual who works under the supervision of the display operator and who assists with the safety, setup and discharge of a pyrotechnic display, but does not handle the pyrotechnic materials.

(3) Outdoor pyrotechnics display – means a pyrotechnic display that is outdoors and uses 1.4g, 1.3g, 1.2g, and 1.1g pyrotechnics and is a minimum of 75 feet from the audience in accordance with NFPA 1123.

(4) Pyrotechnics – means all fireworks not exempted by G.S. 14-414 and that are used for professional outdoor displays and classified as fireworks by

UN033 (1.1G), UN0334 (1.2G), UN0335 (1.3G), or UN0336 (1.4G) by the United States Department of Transportation under 49 C.F.R. 172.101.

(5) Pyrotechnics display operator – means an individual who is responsible for the safety, setup and discharge of the pyrotechnic display, who is responsible for the supervision of personnel at the pyrotechnic display, and who is licensed under this Article.

(6) Proximate audience display – means a display of pyrotechnics that occurs within a building or structure or that occurs outside before an audience within 75 feet of the pyrotechnics in accordance with NFPA 1126.

(7) Proximate audience display operator – means an individual who is responsible for the safety, setup and discharge of the proximate audience display, and who is licensed under this Article.

(8) Supervision – means the direction and management of the activities of personnel in the safety, setup, handling and display of an outdoor pyrotechnic display, a proximate audience display, or a flame effect display."

SECTION 3. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-82A-1B. Commissioner of Insurance to administer Article; rules; employees; evidence of Commissioner's action.**

(a) The Commissioner shall have full power and authority to administer the provisions of this Article, which establishes guidelines for the use, handling, exhibiting, or discharge of pyrotechnics in connection with a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, and to license and regulate pyrotechnic operators. The Commissioner shall adopt any rules necessary to enforce the purposes and provisions of this Article.

(b) Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the Commissioner, or any record of the Commissioner authenticated under the head of the Commissioner by the seal the Commissioner's office shall be accepted by all courts of this State as prima facie evidence of the contents thereof."

SECTION 4. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-82A-2A. Require licenses.**

(a) No person shall obtain a pyrotechnics permit under Article 54 of Chapter 14 of the General Statutes unless the person possesses the appropriate license, as provided by this Article.

(b) An applicant for a license authorized by this Article shall apply on forms supplied by the Commissioner. The Commissioner shall inquire as to the applicant's qualifications and other matters relative to the applicant's fitness to be licensed or to continue to be licensed.

(c) When a license is issued under this section, the Commissioner shall issue to the licensee an identification card approved by the Commissioner. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license terminates or is terminated shall surrender the identification card to the Commissioner, when requested by the Commissioner. The Commissioner may contract directly with persons for the processing and issuance of identification cards required by this section and may charge a reasonable fee in addition to the license fee in an amount that offsets the cost of the service, including the costs associated with the contract authorized by this subsection. Contracts entered into under this subsection shall not be subject to Article 3 of Chapter 143 of the General Statutes."

SECTION 5. Article 82A of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-82A-2B. Terms of licenses.

A license issued to a pyrotechnics display operator, a proximate audience display operator, or an assistant display operator under this Article authorizes the licensee to act in that capacity until the license is suspended, revoked, or not renewed. Upon the suspension or revocation of a license, or the failure to renew a license, the licensee shall return the license to the Commissioner. A pyrotechnics display operator's license, a proximate audience display operator's license, and an assistant display operator's license may be renewed every three years from the date of issuance upon payment of the applicable renewal fee."

SECTION 6. G.S. 58-82A-3 reads as rewritten:

"**§ 58-82A-3. (Effective February 1, 2010) Display operator ~~permit.~~ license.**

(a) ~~Permit~~ License Required. – A display operator ~~permit~~ license issued by the ~~State Fire Marshal~~ Commissioner is required for an individual to obtain the necessary authorization under Article 54 of Chapter 14 of the General Statutes to exhibit, use, handle, manufacture, or discharge pyrotechnics at a concert or public exhibition in this State. A ~~permit~~ license issued under this section is valid for three years unless it is revoked by the ~~State Fire Marshal.~~ Commissioner.

(b) Requirements. – The ~~State Fire Marshal~~ Commissioner may issue a display operator ~~permit~~ license to an individual if all of the following conditions are met:

(1) The individual is at least 21 years of age.

(2) The individual has ~~assisted with~~ acted as an operator for the exhibition, use, or display of pyrotechnics at a concert or public exhibition, as allowed under Article 54 of Chapter 14 of the General Statutes, on at least three occasions.

(3) The individual successfully completes the minimum training requirements established by the State Fire Marshal.

(4) The individual ~~successfully passes~~ achieves a score of at least seventy-five percent (75%) on an examination approved by the State Fire Marshal that demonstrates the individual has the knowledge to safely handle, store, and exhibit Class ~~1.3g and 1.4g~~ 1.4g, 1.3g, 1.2g, and 1.1g pyrotechnics or provides satisfactory evidence of current certification by a third party acceptable to the State Fire Marshal.

~~(5) The individual pays an application fee not to exceed one hundred dollars ($100.00) and the cost of the examination.~~

(6) The individual has no violations of any provision of this Article or of any similar provision of any other state and submits an "Employer Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40 or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40 Section 842(i).

~~(c) Reciprocity. – The State Fire Marshal may issue a display operator permit to an individual who holds a permit or certification issued by another state, provided the minimum requirements of that state are at least equal to the minimum requirements under this section and the person pays the application fee required under subsection (b) of this section.~~

~~(d) Refusal and Revocation. – The State Fire Marshal may refuse to issue a permit or may revoke a permit issued under this section if any of the following apply:~~

~~(1) The display operator violates any provision of this Article.~~

~~(2) The display operator violates any requirement of a permit issued under G.S. 14-413.~~

~~(3) The display operator fails to provide direct supervision and control over individuals who assist the permit operator in handling, using, exhibiting, or displaying pyrotechnics.~~

~~(4) The display operator is convicted of a crime under Article 54 of Chapter 14 of the General Statutes.~~

~~(5) Another state revokes the permit or certification issued to that display operator by that state.~~"

SECTION 7. Article 82A of Chapter 58 of the General Statutes is amended by adding the following new sections to read:

"**§ 58-82A-4. Proximate audience display operator license.**

The Commissioner may issue a proximate audience display operator license to an individual who meets all of the following requirements:

(1) Is at least 21 years of age at the time of application.

(2) Completes the training program approved by the Commissioner for pyrotechnic display operators or another program which the Commissioner determines to be substantially equivalent.

(3) Achieves a score of at least seventy-five percent (75%) on the written examination provided by the Commissioner.

(4) Submits evidence of active participation as an operator in the safe performance of three proximate audience displays. The applicant shall have performed the duties of a display operator on at least two of these proximate audience displays under the supervision of a display operator.

(5) Has not violated any provision of this Article or of any similar provision of any other state.

"**§ 58-82A-5. Assistant display operator license.**

(a) No person shall assist a pyrotechnics display operator, or a proximate audience display operator with the exhibition, use, handling or discharge of pyrotechnics or pyrotechnic effects in connection with a concert or public exhibition authorized under Article 54 of Chapter 14 of the General Statutes without an assistant display operator's license issued by the Commissioner.

(b) The Commissioner may issue an assistant display operator license to an individual who meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Signs a statement provided by the Commissioner affirming that the individual has read and understands the pyrotechnics safety guidelines established by the Office of State Fire Marshal.

(3) Achieves a score of at least seventy-five percent (75%) on the written examination provided by the Commissioner.

(4) Submits an "Employee Possessor Letter of Clearance" issued to the individual by the Bureau of Alcohol, Tobacco and Firearms pursuant to 18 U.S.C. Chapter 40, or, if the Bureau of Alcohol, Tobacco and Firearms has not issued a Letter of Clearance to the individual, the individual signs a statement provided by the Commissioner affirming that the individual has not been convicted of violating 18 U.S.C. Chapter 40 Section 842(i).

"**§ 58-82A-6. License fees.**

(a) A nonrefundable license fee of one hundred dollars ($100.00) shall be paid by the applicant to the Commissioner at the time of each application for a pyrotechnics display operator license.

(b) A nonrefundable license fee of one hundred dollars ($100.00) shall be paid by the applicant to the Commissioner at the time of each application for a license as a proximate audience display operator license.

(c) A nonrefundable license fee of thirty dollars ($30.00) shall be paid to the Commissioner by the applicant with each application for a license as an assistant display operator.

"**§ 58-82A-7. Qualifications for event employees.**

(a) Notwithstanding the provisions of this Article, the Commissioner or the fire code official for the jurisdiction issuing the pyrotechnics permit under G.S. 14-413 may certify an individual as an event employee if the individual meets the following requirements:

(1) Is at least 18 years of age.

(2) Possesses and provides a valid drivers license or other state-issued identification card.

(3) Correctly passes an on-site examination administered by the Office of State Fire Marshal or fire code official for the jurisdiction issuing the permit under G.S. 14-413 of five questions to test basic pyrotechnic safety knowledge.

(4) Provides written confirmation from the licensed display operator that the event employee is working under the supervision of the display operator and that the event employee will not handle the pyrotechnic materials. An event employee certification is valid only for the concert or public exhibition listed on the pyrotechnic permit and cannot be renewed.

"**§ 58-82A-8. Examination fees.**

(a) Each applicant for a license as a pyrotechnic display operator, a proximate audience display operator, or assistant display operator shall take a written examination approved by the Commissioner. The Commissioner may contract with a person to process, administer, and grade the examination in the same manner as for agent examinations under Article 33 of this Chapter. The Commissioner may charge a fee to offset the costs of the contract for examination services.

(b) The fee for the examination is ten dollars ($10.00). The examination fee is nonrefundable.

"**§ 58-82A-9. Renewal fees.**

(a) To renew a license as a pyrotechnics display operator, a proximate audience display operator, or an assistant display operator, a licensee shall make application to the Commissioner upon the renewal application form provided by the Commissioner and attest that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Failure to provide the attestation or providing untrue, incorrect, or incomplete statements shall be grounds for denial, suspension, or revocation of the license.

(b) Before approving the application for renewal, the Commissioner shall find that the licensee:

(1) Has not committed any act which is grounds for denial, suspension, nonrenewal, or revocation under this Article.

(2) Has not had administrative action taken against a pyrotechnics display operator's license or the equivalent, by this or any other state.

(3) Has on at least three occasions participated in the use, handling, exhibiting, or discharge of pyrotechnics in connection with a concert or public exhibition pursuant to the terms of the license.

(4) Has paid the applicable fees set forth in this Article.

(5) Has completed a minimum of 12 hours of continuing education during the previous three-year period.

(c) The renewal fee for a pyrotechnics display operator license and a proximate audience display operator license is sixty dollars ($60.00). The renewal fee for an assistant display operator license is thirty dollars ($30.00).

"**§ 58-82A-10. Dual license holding.**

If any individual holds more than one license issued under this Article simultaneously, they are considered one license for the purpose of disciplinary actions involving suspension, revocation, or nonrenewal under this Article. Separate fees must be paid for each license.

"**§ 58-82A-11. Reciprocity.**

The Commissioner may issue a display operator license to an individual who holds a valid permit, license, or certification issued by another state, provided the minimum requirements of that state are at least equal to the minimum requirements under this Article and the person pays the application fee required under this Article.

"**§ 58-82A-12. Discipline.**

The Commissioner may deny, suspend, revoke, or refuse to renew any license under this Article if any of the following apply:

(1) The licensee violates any provision of this Article.

(2) The applicant or licensee violates any requirement of a permit issued under G.S. 14-413.

(3) A licensed display operator fails to provide direct supervision and control over individuals who assist the licensee in handling, using, exhibiting, or displaying pyrotechnics.

(4) A licensed display operator is convicted of a crime under Article 54 of Chapter 14 of the General Statutes.

(5) Another state revokes the permit, license, or certification issued to the licensee by that state.

(6) A material misstatement, misrepresentation, or fraud was committed in obtaining a license under this Article.

(7) Cheating on an examination required by this Article.

(8) Knowingly aiding or abetting others to evade or violate the provisions of this Article.

(9) Any cause for which the issuance of the license could have been denied had it then existed and been known to the Commissioner at the time of issuance.

"**§ 58-82A-13. License sanction and denial procedures.**

(a) The suspension or revocation of, or refusal to renew, any license under this Article may be contested in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes.

(b) Whenever the Commissioner denies an initial application for a license or an application for a reissuance of a license, the Commissioner shall notify the applicant and advise the applicant, in writing, of the reasons for the denial of the license. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under this Article. In order for an applicant to be entitled to a review of the Commissioner's action, the applicant must make a written demand upon the Commissioner for a review no later than 30 days after the service of the notification upon the applicant. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing of the outcome of the review. In order for an applicant who disagrees with the outcome of the review to be entitled to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make a written demand upon the Commissioner for a hearing no later 30 days after service upon the applicant of the Commissioner's decision."

SECTION 8. G.S. 14-410(a1) reads as rewritten:

"(a1) It shall be permissible for pyrotechnics to be exhibited, used, handled, manufactured, or discharged within the State, provided all of the following apply:

(1) The exhibition, use, or discharge is at a concert or public exhibition.

(2) All individuals who exhibit, use, handle, or discharge pyrotechnics in connection with a concert or public exhibition have completed the training required under G.S. 58-82A-2 and are under the direct supervision and

control of a display operator who holds a display operator ~~permit~~ license issued by the ~~State Fire Marshal~~ Commissioner of Insurance under G.S. 58-82A-3. An individual who, under the supervision of the display operator, assists with the safety, setup, and discharge of a pyrotechnic display must be licensed in accordance with G.S. 58-82A-5. The display operator must be present at the concert or public exhibition and must personally direct all aspects of exhibiting, using, handling, or discharging the pyrotechnics.

(3) The display operator has secured written authority under G.S. 14-413 from the board of county commissioners of the county, or the city if authorized under G.S. 14-413(a1), in which the pyrotechnics are to be exhibited, used or discharged. Written authority from the board of commissioners or city is not required under this subdivision for a concert or public exhibition provided the display operator has secured written authority from The University of North Carolina or the University of North Carolina at Chapel Hill under G.S. 14-413, and pyrotechnics are exhibited on lands or buildings in Orange County owned by The University of North Carolina or the University of North Carolina at Chapel Hill."

SECTION 9. There is appropriated from the General Fund the sum of one hundred sixty thousand dollars ($160,000) on a recurring basis to the Office of State Fire Marshal for positions for the administration and enforcement of this Article. This amount is to be repaid to the General Fund by the Department of Insurance from the Insurance Regulatory Surcharge Fund.

SECTION 10.(a) Notwithstanding the provisions of Article 82A of Chapter 58 of the General Statutes, the Commissioner of Insurance may issue a temporary display operator license to any individual who meets the following qualifications:

(1) Is at least 21 years of age.

(2) Provides evidence of completion of a minimum of six North Carolina permitted displays within the past 10 years.

SECTION 10.(b) A temporary display operator's license issued pursuant to this section shall be issued to a person only one time and shall be valid for 30 days after issuance. A person issued a temporary license shall take the written exam required by Article 82A of Chapter 58 of the General Statutes and complete the training program approved by the Commissioner for pyrotechnic displays, or another program the Commissioner determines to be substantially equivalent, no later than September 30, 2010, or 60 days after the effective date of this act. Any person not in compliance with this subsection shall not be allowed to apply for a license until after September 30, 2011. In no event shall a temporary license be issued after July 31, 2010.

SECTION 10.(c) The fee for a temporary license is twenty-five dollars ($25.00).

SECTION 11. This act is effective when it becomes law.

SENATE BILL 992:
Pyrotechnics Operator's License.

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary I	**Date:**	June 8, 2010
Introduced by:	Sen. Davis	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition S992-CSRO-107		

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 992 amends and clarifies the Pyrotechnics Training and Permitting Act to require that pyrotechnic display operators and their assistants obtain a license from the Commissioner of Insurance.***

CURRENT LAW:

S.L. 2009-507 required pyrotechnics at concerts and public displays to be exhibited under the supervision of a display operator who has obtained training and a permit issued by the State Fire Marshal. Pursuant to G.S. 58-80-1, the Commissioner of Insurance is the State Fire Marshal.

Current law generally prohibits the manufacture, transportation (except by a common carrier), sale, or e of pyrotechnics, except in connection with approved concerts and public displays. The law requires at approved public displays of pyrotechnics be under the supervision of trained and permitted display operators who have previously been issued permits by cities and counties to discharge pyrotechnics.

BILL ANALYSIS:

The PCS for Senate Bill 992 amends the law to provide that no person may obtain a pyrotechnics permit from a city or county unless the person possesses an appropriate license, issued by the Commissioner of Insurance.

The bill authorizes the following three kinds of licenses:

- Display operator license, which replaces the permit authorized under the 2009 law. In order to qualify for this license, an individual must be at least 21 years old, have acted as an operator for authorized displays at least 3 times, have completed the minimum training required, have achieved a score of at least 75% an approved examination or have current certification by a third party acceptable to the State Fire Marshal, and have no violations of this or any other state's similar law, and submit a letter of clearance from the federal Bureau of Alcohol, Tobacco, and Firearms or sign a statement that the operator has not been convicted under federal law.
- Proximate audience display operator license, which applies to an individual who displays pyrotechnics that occur within a building or structure or that occur outside before an audience within 75 feet of the pyrotechnics. In order to qualify for this license, an individual must be at least 21 years of age, complete the training program, achieve a score of at least 75% on the examination, have participated as an operator in at least 3 proximate audience displays and have performed the duties of display operator on at least 2 of these occasions, and have no violations of this or any other state's similar laws.
- Assistant display operator license, which applies to any person who assists a display operator or a proximate audience display operator. In order to qualify for this license, an individual must be at

least 18 years of age, sign a statement that the individual has read and understands the safety guidelines, achieve a score of at least 75% on the examination, and submit a letter of clearance from the federal Bureau of Alcohol, Tobacco, and Firearms or sign a statement that the operator has not been convicted under federal law.

The bill authorizes a nonrefundable license fee of $100 for each application for a display operator license or a proximate audience display operator license, and a $30 fee for each application for an assistant display operator license. There is also a $60 renewal fee for display operators and proximate audience operators, and a $30 renewal fee for assistant display operators. The examination fee for all three categories of license is $10 and nonrefundable.

The bill defines an event employee as a person who assists a display operator but does not handle pyrotechnic materials. The Commissioner or a local fire code official may certify an individual as an event employee if the person is at least 18 years of age, has a valid driver's license or other state issued identification, passes an on-site test of five basic pyrotechnic questions, and provide written confirmation from a display operator that the event employee is working under the display operator's supervision and will not handle pyrotechnic material. The event employee certification is only valid for the listed event and cannot be renewed.

The Commissioner is authorized to deny, suspend, revoke or refuse to renew any license for any one of a number of listed prohibited activities.

The bill appropriates $160,000 from the General Fund to the Office of State Fire Marshal to administer and enforce the act. It also provides that the amount shall be repaid to the General Fund from the Insurance Regulatory Surcharge Fund.

Section 10 of the bill authorizes the Commissioner to issue a temporary display operator license to an individual who is at least 21 years of age, has completed a minimum of six permitted displays in North Carolina in the past ten years, and pays a $25 fee. The temporary license can only be issued to a person one time and is valid for 30 days. The temporary licensee must take the exam and complete the training by September 30, 2010, or 60 days after the effective date of this act. A person who fails to comply with the act cannot apply for a license until after September 30, 2011. No temporary license shall be issued after July 31, 2010.

EFFECTIVE DATE: The Department of Insurance indicates that they are prepared to implement this act immediately and has requested that the act become effective when it becomes law.

Heather Fennel, counsel to House Finance, substantially contributed to this summary.

S992-SMRO-167(CSRO-107) v1

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SENATE BILL 992

Short Title:	Authorize Mayors to Solemnize Marriage.	(Public)
Sponsors:	Senators Davis; Apodaca, Kinnaird, Snow, Stein, and Stevens.	
Referred to:	Judiciary I.	

March 26, 2009

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MAYORS TO SOLEMNIZE MARRIAGES IF AUTHORIZED BY LOCAL ORDINANCE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"**§ 51-1. Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, ~~or a magistrate;~~a magistrate, or a mayor authorized by local ordinance to solemnize marriages; and

b. With the consequent declaration by the ~~minister or magistrate~~ minister, magistrate, or mayor that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

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

VISITOR REGISTRATION SHEET

~~COMMITTEE ON EDUCATION~~ STATE GOV'T June 8, 2010
State personnel

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME: (*Please Print*)	FIRM OR AGENCY AND ADDRESS
Brittany Farrell	NCFPC
Rob Roegner	NCdoi
Rose Williams	NCDOJ
[illegible]	[illegible]
Beau Memory	NCDOT
Richard Walls	NCDOT
Kellie Slappey	John Locke
David Knight	DENR
[illegible]	NCDOT
[illegible]	SBE
Johanna Reese	DOT
Jem Griffith	Intern Chris Heagarty

VISITOR REGISTRATION SHEET

Govt
State ~~Person~~ / State Personnel — 6-8-10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Carl Dean	OSP
Paul Meyer	NCLM
Christa Agner	DOA
Tala Khatib	Governors Page
Brian Demsey	MWC
Suzanne Bradley	SLEAVE

Minutes
House Committee on State Government/State Personnel
Thursday, June 10, 2010

The House Committee on State Government/State Personnel met around Chairman Wilkins' desk in the House Chamber on Thursday, June 10, 2010, at 2:10 PM, immediately following Session. In addition to Chairman Wilkins, the following members were present: Vice Chairs Gill, Jackson and Mobley; and Representatives Heagarty, Burr, Justus, Randleman, Sager, Sutton, Wiley, and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; and Committee Assistant Nancy Brantley.

The following bill was heard:

HB 1884, Amend SEAA Board Membership. Representative Ray Rapp, sponsor of the bill, explained that this bill would amend the composition of, number of, and process for removing members on the board of directors of the State Education Assistance Authority. The bill is a recommendation of the Joint Select Committee on State Funded Student Financial Aid. Representative Womble moved for a favorable report on the bill. The motion was adopted.

The meeting was adjourned at 2:15 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1884 A BILL TO BE ENTITLED AN ACT TO AMEND THE NUMBER AND COMPOSITION OF THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE STATE EDUCATION ASSISTANCE AUTHORITY, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON STATE-FUNDED STUDENT FINANCIAL AID.

☒ 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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Thursday, June 10, 2010
Immediately Following Session
Around Rep. Wilkins'

I. Agenda Items

HB 1884 Amend SEAA Board Membership
Representative Rapp

II. Discussion

III. Adjourn

HOUSE BILL 1884*

Short Title:	Amend SEAA Board Membership.	(Public)
Sponsors:	Representatives Rapp; Bell, Glazier, Harrison, Hughes, Tarleton, and Tolson.	
Referred to:	Education, if favorable, State Government/State Personnel.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NUMBER AND COMPOSITION OF THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE STATE EDUCATION ASSISTANCE AUTHORITY, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON STATE-FUNDED STUDENT FINANCIAL AID.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-203 reads as rewritten:

"**§ 116-203. Authority created as subdivision of State; appointment, terms and removal of board of directors; officers; quorum; expenses and compensation of directors.**

(a) Authority Created. – There is ~~hereby~~ created and constituted a political subdivision of the State to be known as the "State Education Assistance Authority." The exercise by the Authority of the powers conferred by this Article shall be deemed and held to be the performance of an essential governmental function.

~~The Authority shall be governed by a board of directors consisting of seven members, each of whom shall be appointed by the Governor. Two of the first members of the board appointed by the Governor shall be appointed for terms of one year, two for terms of two years, two for terms of three years, and one for a term of four years from the date of their appointment; and thereafter the members of the board shall be appointed for terms of four years. Vacancies in the membership of the board shall be filled by appointment of the Governor for the unexpired portion of the term. Members of the board shall be subject to removal from office in like manner as are State, county, town and district officers. Immediately after such appointment, the directors shall enter upon the performance of their duties. The board shall annually elect one of its members as chairman and another as vice chairman, and shall also elect annually a secretary, or a secretary treasurer, who may or may not be a member of the board. The chairman, or in his absence, the vice chairman, shall preside at all meetings of the board. In the absence of both the chairman and vice chairman, the board shall appoint a chairman pro tempore, who shall preside at such meetings. Four directors shall constitute a quorum for the transaction of the business of the Authority, and no vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The favorable vote of at least a majority of the members of the board present at any meeting is required for the adoption of any resolution or motion or for other official action. The members of the board are entitled to the travel expenses, subsistence allowances and compensation provided in G.S. 138-5. These expenses and compensation shall be paid from funds provided under this Article, or as otherwise provided.~~

(b) Membership. – The Authority shall be governed by a board of directors consisting of nine members, seven of whom shall be appointed by the Governor and two of whom shall be ex officio. The members shall be as follows:

(1) Seven members appointed by the Governor, three of whom shall have expertise in secondary or higher education, two of whom shall have expertise in finance, one of whom shall be a member of the public at large with an interest in higher education, and one of whom shall be a chief financial officer from a college or university that is a member of North Carolina Independent Colleges and Universities, Inc., appointed upon the recommendation of North Carolina Independent Colleges and Universities, Inc.

(2) The chief financial officer of The University of North Carolina shall serve as an ex officio member.

(3) The chief financial officer of the North Carolina Community College System shall serve as an ex officio member.

(c) Terms. – Members appointed by the Governor shall serve for a term of four years and until their successors are appointed and duly qualified. Immediately after appointment, the directors shall enter upon the performance of their duties.

(d) Vacancies. – A vacancy in an appointment made by the Governor shall be filled by the Governor in the same manner as the original appointment for the remainder of the unexpired term.

(e) Removal. – The Governor may remove any member of the board of directors appointed by the Governor for misfeasance, malfeasance, or nonfeasance.

(f) Officers. – The board shall annually elect one of its members as chair and another as vice-chair and shall also elect annually a secretary, or a secretary-treasurer, who may or may not be a member of the board. The chair, or in the chair's absence, the vice-chair, shall preside at all meetings of the board. In the absence of both the chair and vice-chair, the board shall appoint a chair pro tempore, who shall preside at such meetings.

(g) Quorum. – Five directors shall constitute a quorum for the transaction of the business of the Authority, and no vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The favorable vote of at least a majority of the members of the board present at any meeting is required for the adoption of any resolution or motion or for other official action.

(h) Expenses. – The members of the board shall receive per diem and allowances as provided in G.S. 138-5 and G.S. 138-6. These expenses and compensation shall be paid from funds provided under this Article, or as otherwise provided."

SECTION 2. Notwithstanding G.S. 116-203, as enacted by Section 1 of this act, members serving on the board of directors of the North Carolina State Education Assistance Authority on the effective date of this act may complete the terms for which they were appointed. When the term of any of the seven members appointed by the Governor expires, the vacancy shall be filled as follows:

(1) Of the members appointed by the Governor whose terms expired on January 15, 2010, the Governor shall appoint one member who has expertise in secondary or higher education and one member who is a chief financial officer from a college or university that is a member of the North Carolina Independent Colleges and Universities, Inc., upon the recommendation of that organization. The terms of these two members shall be deemed to have begun on January 15, 2010.

(2) Of the members appointed by the Governor whose terms expire on January 15, 2011, the Governor shall appoint one member who has expertise in secondary or higher education and one member from the public at large who has an interest in higher education.

(3) Of the members appointed by the Governor whose terms expire on January 15, 2012, the Governor shall appoint one member who has expertise in secondary or higher education and one member who has expertise in finance.

(4) When the member appointed by the Governor whose term expires on January 15, 2013, completes that term, the Governor shall appoint a member who has expertise in finance.

Members described in this section shall serve for the terms for which they were appointed and until their successors are appointed and qualified.

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

HOUSE BILL 1884:
Amend SEAA Board Membership

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	June 10, 2010
Introduced by:	Rep. Rapp	**Prepared by:**	Shirley Iorio, Ph D*
Analysis of:	First Edition		Legislative Analyst

SUMMARY: House Bill 1884 would amend the composition of, number of, and process for removing members on the board of directors of the State Education Assistance Authority. The bill is a recommendation of the Joint Select Committee on State Funded Student Financial Aid.

[As introduced, this bill was identical to S1323, as introduced by Sen. Stevens, which is currently in Senate Education/Higher Education.]

CURRENT LAW: G.S. 116-203 currently provides that the board of directors (board) of the State Education Assistance Authority shall be composed of seven members, all of whom shall be appointed by the Governor to serve four-year terms. There are no specific criteria or categories of membership for the board members and the board members shall be subject to removal from office in the same manner as State, county, town and district officers.

BILL ANALYSIS: House Bill 1884 would increase the number of board members from seven to nine. The bill would also change the composition of the membership of the board. The Governor would continue to appoint seven members, however two of the appointees must have expertise in finance, three must have expertise in secondary or higher education, one must be a public member with an interest in higher education, and one must be a chief financial officer from an independent college or university that is a member institution of the North Carolina Independent Colleges and Universities, Inc., appointed upon recommendation of that organization. A gubernatorial appointment continues to be for a four year term or until a successor is appointed and duly qualified. The bill would further change the composition of the board membership by adding two ex officio members: the chief financial officer of The University of North Carolina and the chief financial officer of the North Carolina Community College System.

House Bill 1884 would also change the method for removing appointed members from the board. The current law provides no further detail as to which State, county, town, or district officers are to be the model for removal so the bill would provide instead that the Governor may remove any appointee from the board for misfeasance, malfeasance, or nonfeasance.

The bill would allow members currently on the board to complete the terms for which they were appointed. Gubernatorial appointments for successors to the current members must satisfy the membership criteria and categories set out in the bill.

EFFECTIVE DATE: The bill would become effective when it becomes law.

BACKGROUND: House Bill 1884 is a recommendation of the Joint Select Committee on State Funded Student Financial Aid. The Committee heard that the current law has no specific criteria or categories for the board members and that two of the current members have expertise in finance and five have expertise in education.

With regard to the expiration of the terms of members currently serving on the board, there are two terms that expired on January 15, 2010, two terms that will expire on January 15, 2011, two terms that will expire on January 15, 2012, and one term that will expire on January 15, 2013. The vacancies for the terms that expired on January 15, 2010, have not yet been filled; therefore, the two members who were appointed to those slots continue to serve until successors for those slots are appointed.

Sara Kamprath, Legislative Analyst, substantially contributed to this summary.

Minutes
House Committee on State Government/State Personnel
Tuesday, June 15, 2010

The House Committee on State Government/State Personnel met on Tuesday, June 15, 2010, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Gill, Jackson and Mobley; and Representatives Burr Heagarty, Justus, Killian, Randleman, Sager, Wiley and Womble.

Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms Dusty Rhodes, Toussaint Avent and Ken Burroughs. Pages for the meeting were: Micaela Percy of Wake County, sponsored by Representative Stam; Brittany Talton of Johnston County, sponsored by Representative Doughtry; Molly Casey of Wilkes County, sponsored by Representative Randleman; and Rollins Wallace of Wake County, sponsored by Representative Ross.

The following bills were considered:

HB 1717, Modernization of the State ABC System. By motion of Representative Killian, the PCS was adopted for discussion. The bill's sponsor, Representative Ray Warren, explained that the bill makes a number of changes to the State's ABC laws, many of which were recommended by a joint legislative study committee on Alcoholic Beverage Control issues. The PCS adds more detail to the long title, and among other changes, increases from 500 to 1,000 the number of registered voters needed to hold a mixed beverage election and ensures that the city that votes can get liquor from an ABC board designated by the ABC Commission. Representative Burr offered an amendment, and moved for its adoption, that would change the long title of the bill back to its original title. The motion was adopted. Jon Williams, Chairman of the ABC Commission; Jon Carr, lobbyist for NC Association of ABC Boards, The Reverend Mark Creech of the Christian Action League of NC, and Kris Gardner, lobbyist for NC Beer and Wine Wholesalers Association all spoke on the bill. Following discussion, Representative Burr moved for a favorable report as to the Committee Substitute Bill #2, which changes the title, unfavorable as to Committee Substitute Bill #1. The motion was adopted.

HB 1429, Mortgage Guaranty Insurer Sunset Extended. Representative Lewis explained that this bill simply extends the sunset date from July 1, 2011 to July 1, 2015, and the Commissioner of Insurance was "on board" with this. Following discussion, Representative Womble moved with a recommendation that the House concur. The motion carried.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒ Senate Committee Substitute for

HB 1429 A BILL TO BE ENTITLED AN ACT TO EXTEND THE EFFECTIVE DATE FOR COMMISSIONER OF INSURANCE DISCRETION TO WAIVE THE MINIMUM POLICYHOLDERS POSITION REQUIREMENT UNDER CERTAIN CIRCUMSTANCES FOR MORTGAGE GUARANTY INSURERS.

☒ With recommendation that the House concur.

(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 _____.

mkn

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
HB 1717 A BILL TO BE ENTITLED AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE TIER SYSTEM, AND TO REQUIRE MINIMUM STANDARDS AGE STANDARDS LAW ENFORCEMENT.

☒ With a favorable report as to 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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, June 15, 2010
2:00 PM
Room 424, LB

I. Agenda Items

HB 1717 Modernization of the State ABC System
Representatives Warren, Bell and Lucas

HB 1429 Mortgage Guaranty Insurer Sunset Extended
Representative Lewis

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1717*
Committee Substitute Favorable 6/9/10
PROPOSED COMMITTEE SUBSTITUTE H1717-PCS60086-MA-35

Short Title: Modernization of the State ABC System. (Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE-TIER SYSTEM, AND TO REQUIRE MINIMUM AGE STANDARDS FOR LAW ENFORCEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 reads as rewritten:

"**§ 18B-101. Definitions.**

As used in this Chapter, unless the context requires otherwise:

...

(6f) "Finance officer" means the local board employee, other than a general manager, that is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.

(7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(7d) "General manager" means the local board employee that is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.

~~(7a)~~(7g) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:

a. Is on the national register of historic places or located within a State historic district.

b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).

c. Is located within 15 miles of a national scenic highway.

d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.

~~(7b)~~(7k) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage.

...."

SECTION 2. G.S. 18B-201 reads as rewritten:

"**§ 18B-201. Conflict of ~~interest.~~interest; gifts.**

(a) Financial Interests Restricted. – No person shall be appointed to or employed by the Commission, a local board, or the ALE Division if that person or a member of that person's family related to that person by blood or marriage to the first degree has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit. The Commission may exempt from this provision any person, other than a Commission member, when the financial interest in question is so insignificant or remote that it is unlikely to affect the person's official actions in any way. Exemptions may be granted only to individuals, not to groups or classes of people, and each exemption shall be in writing, be available for public inspection, and contain a statement of the financial interest in question.

(b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the Commission and local boards.

(c) Dealing for Family Members. – Neither the Commission nor any local board shall contract or otherwise deal in any business matter so that a member, member's spouse or any person related to ~~him~~ the member by blood to a degree of first cousin or closer in any way financially benefits, directly or indirectly, from the transaction unless:

(1) The member who financially benefits from the transaction or whose spouse or relative financially benefits from the transaction abstains from participating in any way, including voting, in the decision;

(2) The minutes of the meeting at which the final decision is reached specifically note the member who is financially benefited or whose spouse or relative is financially benefited and the amount involved in each transaction;

(3) The next annual audit of the Commission or local board specifically notes the member and the amount involved in each transaction occurring during the year covered by the audit; and

(4) If the transaction is by a local board, the Commission is notified at least two weeks before final board approval of the transaction.

(d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the Commission and local boards.

(e) Conflicts of Interest for the Commission. – The provisions of Article 4 of Chapter 138A of the General Statutes shall apply to the Commission.

(f) Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of this section, a local ABC board member shall not knowingly use the local ABC board member's position on the board in any way that will result in financial benefit to the local ABC board member, the local ABC board member's spouse, any person related to the local ABC board member by blood to a degree of first cousin or closer, or any business with which the local ABC board member is associated.

(g) For purposes of subsection (f) of this section, 'business with which associated' shall have the same meaning as in G.S. 138A-3(3). For purposes of this section, 'financial benefit' shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

(h) Notwithstanding subsection (f) of this section, a local ABC board member may participate in an action of the local ABC board under any of the following circumstances except as specifically limited:

(1) The financial benefit that accrues to the local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that is accrued as a member of a profession, occupation, or general class and is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.

(2) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that would be enjoyed to an extent no greater than that which other citizens of the State would or could enjoy.

(3) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the local ABC board member's ability to protect the public interest and perform the local ABC board member's duties would not be compromised.

(4) When an action affects or would affect the local ABC board member's compensation as a local ABC board member.

(5) Before the local ABC board member participated in the action, the board member requested and received from the ABC Commission a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the ABC Commission shall consider the need for the local ABC board member's particular contribution, such as special knowledge of the subject matter and the effective functioning of the local ABC board.

(6) When action is ministerial only and does not require the exercise of discretion.

(7) When the local ABC board records in its minutes that it cannot obtain a quorum in order to take the action because the local ABC board member is disqualified from acting, the local ABC board member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(i) Nothing in this section shall allow participation in an action prohibited by G.S. 14-234 or G.S. 133-32.

(j) A local board member shall not improperly use or improperly disclose any confidential information.

(k) A local board member shall have an affirmative duty to promptly disclose in writing to the local board any conflict of interest or potential conflict of interest."

SECTION 3. G.S. 18B-202 reads as rewritten:

"**§ 18B-202. Discharge upon conviction.**

In addition to imposing any other penalty authorized by law, a judge may remove from office or discharge from employment any Commission or local board member or employee, or any ALE agent, who is convicted of a violation of any provision of this Chapter or of any

felony and may declare that person ineligible for membership or employment with the Commission, any local board, or the ALE Division, for a period of not longer than three years. Conviction of a crime under this Chapter or of any felony shall also be grounds for the Commission to remove from office or discharge from employment any local board member or employee. In addition to imposing any other penalty authorized by law, a judge may prohibit an individual convicted of a violation of this Chapter, or of any felony, from participating in any contract to enforce the ABC laws for a local board if that individual is a designated officer of an agency which holds a contract to enforce the ABC laws for a local board. A judge may also prohibit an individual convicted of a violation of this Chapter, or of any felony, from being designated as an officer that enforces the ABC law under a contract with any local board for a period of not longer than three years."

SECTION 4. G.S. 18B-203(a) is amended by adding new subdivisions to read:

"**§ 18B-203. Powers and duties of the Commission.**

(a) Powers. – The Commission shall have authority to:

...

(20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, solvency, and customer service.

(21) Promulgate rules to establish mandatory training requirements for local board members, finance officers, and general managers. If personal attendance is required, the Commission shall not require more than four hours of training and shall provide up to two hours of training at convenient locations around the State in conjunction with ethics training.

(22) Provide for the purchase of spirituous liquor from another ABC board by mixed beverage permittees when an ABC system becomes insolvent, closes, or is closed by the Commission and the county or municipality in which the system is located has approved the sale of mixed beverages."

SECTION 5. G.S. 18B-501(f) reads as rewritten:

"(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to a sheriff's department, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the designated officers of the contracting law-enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An agency contracted to provide ABC law enforcement shall designate no more than five officers to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement."

SECTION 6. G.S. 18B-501 is amended by adding a new subsection to read:

"(f1) Accountability; Enforcement Reports. – To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each month, on a form developed by the Commission, the following:

(1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.
(2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
(3) The number of agencies assisted with ABC law or controlled substance related matters.
(4) The number of alcohol education and responsible server programs presented.

The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission."

SECTION 7. G.S. 18B-501(g) reads as rewritten:

"(g) Discharge. – Local ABC officers and the designated officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge and ineligibility provisions of G.S. 18B-202."

SECTION 8. G.S. 18B-600(e) reads as rewritten:

"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election ~~only if:~~if the city has at least 1,000 registered voters. Provided, that if a city that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages permittees in the city may purchase liquor from the ABC store designated by the local ABC board that has been approved by the Commission for this purpose.

~~(1) The city has at least 500 registered voters; and~~
~~(2) Either:~~
~~a. The city already operates a city ABC store; or~~
~~b. A city ABC store election is to be held at the same time as the mixed beverage election; or~~
~~c. The city does not operate a city ABC store but:~~
~~1. The county operates an ABC store;~~
~~2. The county has already held a mixed beverage election; and~~
~~3. The vote in the last county election was against the sale of mixed beverages.~~"

SECTION 9. G.S. 18B-700(a) reads as rewritten:

"(a) Membership. – A local ABC board shall consist of three or five members appointed for three-year ~~terms, unless a different membership or term is provided by a local act enacted before the effective date of this Chapter, or~~ terms unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger. ~~One~~ If the board is a three-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. If the board is a five-member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, two members for two-year terms, and two members for one-year terms. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. If a board is initially a three-member board and the appointing authority determines a five-member board is preferable, the terms of the two new members shall be for three years. If a local board has five members and the appointing authority determines a three-member board is preferable, the appointing authority shall not reduce the size of the board except upon the expiration of a member's term and only with the approval of the Commission. The appointing authority shall designate one member of the local board as chairman."

SECTION 10. G.S. 18B-700 is amended by adding a new subsection to read:

"(a1) Mission. – The mission of local ABC boards and their employees shall be to serve their localities responsibly by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores."

SECTION 11. G.S. 18B-700(g) reads as rewritten:

"(g) ~~Salary.~~Compensation of Board Members. – A local board member ~~may be compensated as determined by the appointing authority.~~shall receive compensation in an amount not to exceed one hundred fifty dollars ($150.00) per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. No local board member shall receive any nonmonetary compensation or benefits unless specifically authorized by this section."

SECTION 12. G.S. 18B-700 is amended by adding a new subsection to read:

"(g1) Compensation of General Managers of Local Boards. – The salary authorized for the general manager, as defined in G.S. 18B-101, of a local board shall not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. The general manager of a local board may receive any other benefits to which all employees of the local board are entitled. The salary authorized for other employees of a local board may not exceed that of the general manager."

SECTION 13. G.S. 18B-700 is amended by adding a new subsection to read:

"(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless the local board adopts a travel policy that conforms to the travel policy of the appointing authority and such policy is approved by the appointing authority. The local board shall annually provide the appointing authority's written confirmation of such approval to the Commission and a copy of the travel policy authorized by the appointing authority. Any excess expenses not covered by the local board's travel policy shall only be paid with the written authorization of the appointing authority's finance officer. A copy of the written authorization for excess expenses shall be submitted to the Commission by the local board within 30 days of approval."

SECTION 14. G.S. 18B-700(i) reads as rewritten:

"(i) Bond. – Each local board member and the employees designated as the general manager and finance officer of the local board shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~fifty thousand dollars ($50,000) secured by a corporate surety, for the faithful performance of his duties. A public employees' blanket position bond in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may ~~exempt from this bond requirement any board member who does not handle board funds, and it may also~~ increase the amount of the bond required for any member or employee who ~~does handle~~handles board funds."

SECTION 15. G.S. 18B-700 is amended by adding a new subsection to read:

"(k) Nepotism. – Members of an immediate family shall not be employed within the local board if such employment will result in one member of the immediate family supervising another member of the immediate family, or if one member of the immediate family will occupy a position which has influence over another member's employment, promotion, salary

administration, or other related management or personnel considerations. This subsection applies to local board members and employees.

For the purpose of this subsection, the term 'immediate family' includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations."

SECTION 16. G.S. 18B-700 is amended by adding a new subsection to read:

"(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 17. G.S. 18B-701 reads as rewritten:

"**§ 18B-701. Powers and duties of local ABC boards.**

(a) Powers. – A local board shall have authority to:

(1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
(2) Adopt rules for its ABC system, subject to the approval of the Commission;
(3) Hire and fire employees for the ABC system;
(4) Designate one employee as manager of the ABC system and determine his responsibilities;
(5) Require bonds of employees as provided in the rules of the Commission;
(6) Operate ABC stores as provided in Article 8;
(7) Issue purchase-transportation permits as provided in Article 4;
(8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
(9) Borrow money as provided in G.S. 18B-702;
(10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
(11) Invest surplus funds as provided in G.S. 18B-702;
(12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
(13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all rules adopted by the Commission pursuant to this Chapter and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission rules shall be cause for removal."

SECTION 18. G.S. 18B-702 reads as rewritten:

"**§ 18B-702. Financial operations of local boards.**

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Budget Officer. – The general manager of the local board shall be the budget officer for the local board. In the absence of a general manager, a local board may impose the duties of budget officer on the chairman or any member of the local board or any other employee of the board.

(c) Annual Balanced Budget. – Each local board shall operate under an annual balanced budget administered in accordance with this section. A budget is balanced when the sum of estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any

other provision of law, no local board may expend any monies, regardless of their source, except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

(d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer, the budget officer shall prepare a budget for consideration by the local board in such form and detail as may have been prescribed by the budget officer or the local board. The budget, together with a budget message, shall be submitted to the local board, the appointing authority, and the Commission not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the goals fixed by the budget for the budget year, explain important features of the activities anticipated in the budget, set forth the reasons for stated changes from the previous year in appropriation levels, and explain any major changes in fiscal policy.

(e) Filing and Publication of the Budget. – On the same day the budget officer submits the budget to the local board, the budget officer shall make a copy for public inspection, and it shall remain available for public inspection until the budget is adopted. The budget officer shall make a copy of the budget available to all news media in the county. The budget officer shall also publish a statement that the budget has been submitted to the local board and is available for public inspection in the office of the general manager of the local board. The statement shall also give notice of the time and place of the budget hearing required by subsection (f) of this section.

(f) Budget Hearings. – Before adopting the budget, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

(1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.

(2) The full amount of any deficit in each fund shall be appropriated.

(3) Working capital funds set aside pursuant to G.S. 18B-805 shall be established by rule of the Commission. "Working capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.

(4) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.

(5) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.

(6) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

The budget shall be entered in the minutes of the local board and within five days after adoption, and copies thereof shall be filed with the finance officer, the budget officer, the appointing authority, and the Commission.

(h) Amendments to the Budget. – Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section. The local board by appropriate resolution may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the local board at its next regular meeting and shall be entered in the minutes. Amendments to the adopted budget shall also be provided to the appointing authority and the Commission.

(i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the local board shall make interim appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local board for the interval between the beginning of the budget year and the adoption of the budget. Interim appropriations so made shall be charged to the proper appropriations in the adopted budget.

(j) Finance Officer. – Except as otherwise provided, the local board shall designate (i) a part-time or full-time employee of the board other than the general manager or (ii) the finance officer of the appointing authority with consent of the appointing authority to be the finance officer for the local board. The Commission, for good cause shown, may allow the general manager of a board also to be the finance officer. Good cause includes, but is not limited to, the fact that the board operates no more than two stores, and any approval for the general manager also to be the finance officer shall apply until the board operates more than two stores; in any event, the approval shall be effective for 36 months.

(k) Duties and Powers of the Finance Officer. – The finance officer for a local board shall:

(1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.

(2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, and preaudit obligations, and disbursements as required by this section.

(3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.

(4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.

(5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.

(6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

The finance officer shall perform such other duties as may be assigned by law, by the general manager, budget officer, or local board, or by rules and regulations of the Commission.

(l) Accounting System. – Each local board shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget originally adopted and subsequently amended.

(m) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget unless the budget includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project unless the budget authorizes the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the local board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by G.S. 18B-702.

_____

(Signature of finance officer)."

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(n) Disbursements. – When a bill, invoice, or other claim against a local board is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget or a capital project or a grant project authorized by the budget, the finance officer may approve the claim only if:

(1) The finance officer determines the amount to be payable; and

(2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (o) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved in the manner required by G.S. 18B-702.

_____

(Signature of finance officer)."

No certificate is required on payroll checks or drafts on an imprest account in an official depository if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars ($50.00) or less from a petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

~~(b)~~(r) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

~~(c)~~(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a budget officer, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds. The Commission may vary these rules and regulations according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. The Commission has the authority to inquire into and investigate the internal control procedures of a local board and may require any modifications in internal

control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

(v) Penalties. – If a board member or employee of a local board incurs an obligation or pays out or causes to be paid out any funds in violation of this section, the member or employee and the sureties on the official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, the finance officer and the sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

(x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 19. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-704. Removal of local board members and employees.**

(a) Improper Influence. – Neither the Commission nor its individual members shall attempt to coerce any appointing authority to appoint a particular person as a member of a local board or attempt to coerce a local board to employ any particular applicant.

(b) Purpose. – This section is intended to provide a uniform system of removal for appointing authorities and the Commission.

(c) Cause for Removal. – (i) Disqualification of a local board member or employee under the law, (ii) a violation of the ABC laws, (iii) failure to complete training required by this Chapter or the Commission, or (iv) engaging in any conduct constituting moral turpitude or which brings the local board or the ABC system into disrepute is cause for the Commission to remove any member or employee of a local board. The employment or retention of any employee who is known to be disqualified under the law to hold a position with a local board is cause for the Commission to remove the board members involved.

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

(e) Removal Hearing. – Any local board member or employee removed from office or discharged by the Commission or the appointing authority may request a hearing before the Commission. Such a request operates to stay the action of the Commission or the appointing authority with regard to the matter until after the hearing, unless the Commission finds that the public interest requires immediate action. At the hearing, the employee or the employee's counsel may examine all evidence used against the employee and present evidence in the employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of the General Statutes. All hearings shall be conducted informally and in such manner as to preserve the substantial rights of the parties.

(f) Hearing Procedure. – The Commission shall hold the hearing required by subsection (e) of this section within 15 days of the member's or employee's request for a hearing. The standard of review by the Commission is de novo. The Commission or appointing authority shall be represented by a Commission hearing officer. The Commission shall discharge the member or employee if two-thirds of the Commission's members vote for removal. The Commission shall make findings of fact. The Commission may adopt the findings of fact of the Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission

shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

(g) Commission Authority. – The Commission shall have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission. The Commission's decision in a removal hearing is final.

(h) Appeal. – A local board member or employee may appeal the Commission's final decision to the Court of Appeals. The standard of review for an appeal shall be abuse of discretion. The sole remedy for a local board member or employee shall be the reinstatement of the board member or employee to the local board with back pay. All awards for back pay shall be paid by the local board from which the board member or employee was removed.

(i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this section replaces or is intended to replace a local board's policy regarding the termination of an employee for personnel reasons. The removal process under this section is reserved solely for the appointing authority or the Commission to remove a board member or employee for cause.

(j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 20. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-705. Compliance with performance standards; remedies.**

(a) Local Board Compliance. – The Commission shall establish performance standards pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply with established performance standards by conducting regular or special audits, conducting performance evaluations, or taking other measures, which may include inspections by Commission auditors or alcohol law enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission and the local board, shall develop and deliver a performance improvement plan to the local board within 60 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, 12 months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards identified in the statement of findings cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case less than 12 months, the Commission shall take appropriate action to avoid insolvency. This action may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores, or merging the local board with another local board in order to maintain solvency. The Commission may also seize the assets of the local board and liquidate any assets necessary to satisfy any debt in order to maintain the solvency of the local board. Prior to taking action pursuant to this subsection, the Commission shall issue a notice of intent to take such action to the appointing authority and the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 21. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-706. Ethics requirements for local boards.**

(a) Each local board shall adopt a policy containing a code of ethics, consistent with the provisions of G.S. 18B-201, to guide actions by the local board members and employees of the local board in the performance of their official duties. The policy shall address at least all of the following:

(1) The need to obey all applicable laws regarding official actions taken as a local board member or employee.

(2) The need to uphold the integrity and independence of the local board member or employee's position.

(3) The need to avoid impropriety in the exercise of official duties.

(4) The need to faithfully perform the duties of the position.

(5) The need to conduct the affairs of the board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(b) Each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment to the office and again within 12 months after each subsequent appointment to the office. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct for local ABC boards. The education may be provided by the Commission or another qualified source approved by the Commission. The local board shall maintain a record verifying receipt of the ethics education by each member of the local board. The local board may require appropriate ethics training and education for employees of the local ABC board.

(c) The Commission shall develop a model ethics policy that local ABC boards may adopt to be in compliance with this section."

SECTION 22. G.S. 18B-801(b) reads as rewritten:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely ~~affected; and~~affected.

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

(3) The proximity of the new location to existing ABC stores operated by the local board or any other board."

SECTION 23. G.S. 18B-801(c) reads as rewritten:

"(c) Closing of Stores. – Subject to the provisions of ~~subsection (a),~~ subsection (a) of this section, a local board may ~~close,~~ close a store, or the Commission may order a local board to ~~close,~~ close any store when the local board or the Commission determines that:

~~(1) The operation of the store is not sufficiently profitable to justify its continuation;~~

(2) The store is not operated in accordance with the ABC law; or

(3) The continued operation of that store will adversely affect the health, safety, or general welfare of the community in which the store operates."

SECTION 24. G.S. 18B-803 reads as rewritten:

"**§ 18B-803. Store management.**

(a) Manager. – A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. – Each store manager shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~ fifty thousand dollars ($50,000) secured by a corporate surety, for the honest performance of his duties. A public employees' blanket position bond, honesty form, in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of bond required for store managers under this subsection.

(c) Bonding of Other Employees. – A local board or the appointing authority may require any of its other employees who handle funds to obtain bonds. The amount and form of those bonds shall be determined by the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 25. G.S. 18B-1213 reads as rewritten:

"**§ 18B-1213. Obligations of purchaser.**

The purchaser of a ~~winery~~winery, and any successor to the rights of a winery, is obligated to all the terms and conditions of an agreement in effect on the date of the ~~purchase,~~purchase or other acquisition of the right to distribute a brand, except for good cause, which includes,

(1) Revocation of the wholesaler's permit or license to do business in this State,
(2) Bankruptcy or insolvency of the wholesaler,
(3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler, or
(4) Failure by the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon ~~him~~ the wholesaler by the winery.

As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease, transfer, or consolidation."

SECTION 26. G.S. 93B-9 reads as rewritten:

"**§ 93B-9. Age requirements.**

Any other provision notwithstanding, except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E, and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license."

SECTION 27. Section 6 of this act becomes effective January 1, 2011. Sections 12 and 15 of this act become effective October 1, 2010, and apply to general managers and employees hired on or after that date. Section 16 of this act becomes effective October 1, 2011. Section 18 of this act becomes effective May 1, 2011, and is applicable for local board fiscal years beginning July 1, 2011. The ABC Commission shall offer training and education to local boards to assist local boards in complying with Section 18 of this act, and such training and education shall be offered at least once annually after the effective date of this act; however, the Commission shall have no obligation to provide such training and education after December 31, 2013. Section 25 of this act is effective when it becomes law, and its provisions shall apply to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in North Carolina following the effective date of Section 25 of this act shall constitute acceptance by the supplier of the terms of this act and shall be incorporated into the agreement between the supplier and wholesaler. Section 26 of this act is effective when it becomes law. The remainder of this act becomes effective October 1, 2010.

adopted to discuss

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 1717*
Committee Substitute Favorable 6/9/10
PROPOSED COMMITTEE SUBSTITUTE H1717-CSMA-35 [v.10]

6/15/2010 9:47:39 AM

Short Title: Modernization of the State ABC System. (Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM BY: DEFINING THE TERMS "FINANCE OFFICER" AND "GENERAL MANAGER"; PROHIBITING GIFTS AND CLARIFYING CONFLICTS OF INTERESTS FOR LOCAL BOARD MEMBERS, LOCAL BOARD EMPLOYEES AND THEIR RELATIVES; PROVIDING FOR TERMINATION OF A CONTRACT OFFICER'S PARTICIPATION IN AN ABC LAW ENFORCEMENT CONTRACT IF CONVICTED OF VIOLATING AN ABC LAW OR A FELONY; PROVIDING FOR THE PROMULGATION OF RULES BY THE ABC COMMISSION RELATED TO PERFORMANCE STANDARDS, TRAINING, AND ETHICS; PROVIDING FOR THE APPROVAL OF AN ABC BOARD TO CARRY ON BUSINESS FOR MIXED BEVERAGE PERMITTEES IN CITIES OR COUNTIES WHERE AN ABC SYSTEM BECOMES INSOLVENT OR IS CLOSED; REQUIRING A LOCAL CONTRACT ABC ENFORCEMENT AGENCY TO DESIGNATE NO MORE THAN FIVE OFFICERS TO CONDUCT INSPECTIONS AUTHORIZED UNDER G.S. 18B-502; ENSURING ACCOUNTABILITY OF LOCAL ABC ENFORCEMENT AGENCIES BY REQUIRING MONTHLY ENFORCEMENT REPORTS RELATED TO ARRESTS FOR ABC LAW AND CONTROLLED SUBSTANCE VIOLATIONS AND PUBLIC SERVICE PROGRAMS TO BE REPORTED TO THE LOCAL BOARD AND THE APPOINTING AUTHORITY AND POSTED BY THE COMMISSION ON A WEBSITE; CREATING PARITY IN DISCHARGE PROCEDURES FOR LOCAL ABC OFFICERS AND LOCAL CONTRACT ABC LAW ENFORCEMENT OFFICERS; ALLOWING A CITY TO HOLD A MIXED BEVERAGE ELECTION IF THE CITY HAS ONE THOUSAND REGISTERED VOTERS, ELIMINATING THE REQUIREMENT THAT THE CITY ALREADY OPERATE A CITY ABC STORE IN ORDER TO HOLD THE ELECTION OR THAT THE COUNTY EITHER OPERATES AN ABC STORE OR HAS ALREADY HELD AN ELECTION AND THE VOTE WAS AGAINST THE SALE OF MIXED BEVERAGES, AND ALLOWING MIXED BEVERAGES PERMITTEES IN THE CITY TO PURCHASE LIQUOR FROM THE ABC STORE DESIGNATED BY THE LOCAL ABC BOARD THAT HAS BEEN APPROVED BY THE COMMISSION FOR THIS PURPOSE; PROVIDING THAT AN ABC BOARD MAY HAVE EITHER THREE OR FIVE MEMBERS ON THE INITIAL ABC BOARD, MAY INCREASE MEMBERSHIP, AT THE APPOINTING AUTHORITIES DISCRETION, FROM THREE TO FIVE

MEMBERS OR MAY DECREASE MEMBERSHIP FROM FIVE TO THREE MEMBERS UPON THE EXPIRATION OF TERMS AND WITH APPROVAL OF THE COMMISSION, AND SETTING TERMS FOR THE NEW MEMBERS; ESTABLISHING A MISSION STATEMENT FOR LOCAL ABC BOARDS; ESTABLISHING A COMPENSATION CAP OF ONE HUNDRED FIFTY DOLLARS ($150.00) FOR EACH ABC BOARD MEETING ATTENDED BY A LOCAL BOARD MEMBER UNLESS ANOTHER RATE IS APPROVED BY THE LOCAL APPOINTING AUTHORITY; ESTABLISHING A SALARY CAP FOR LOCAL BOARD GENERAL MANAGERS AT A RATE NOT TO EXCEED THAT OF THE CLERK OF COURT FOR THE COUNTY IN WHICH THE APPOINTING AUTHORITY WAS INCORPORATED UNLESS ANOTHER SALARY IS APPROVED BY THE APPOINTING AUTHORITY AND TO REQUIRE THAT NO OTHER BOARD EMPLOYEE MAY HAVE A SALARY GREATER THAN THAT OF THE GENERAL MANAGER FOR THAT LOCAL BOARD; SETTING THE PER DIEM RATE AT A RATE EQUAL TO THE STATE PER DIEM RATE FOR BOARDS AND COMMISSIONS AND STATE EMPLOYEES UNLESS ANOTHER RATE IS ESTABLISHED BY THE APPOINTING AUTHORITY AND ANNUALLY PROVIDED TO THE ABC COMMISSION; ESTABLISHING A MINIMUM FIFTY THOUSAND DOLLAR ($50,000) PERFORMANCE BOND FOR LOCAL BOARD MEMBERS AND THE GENERAL MANAGER AND FINANCE OFFICER OF THE LOCAL BOARD; ESTABLISHING A NEPOTISM POLICY FOR LOCAL BOARDS THAT IS IDENTICAL TO THE STATE'S NEPOTISM POLICY; PROVIDING THAT ANY LOCAL ACT THAT CONTRADICTS THE PROVISIONS OF G.S. 18B-700 AS AMENDED BY THIS ACT ARE NO LONGER VALID; PROVIDING THAT LOCAL BOARDS HAVE A DUTY TO COMPLY WITH ALL RULES AND PERFORMANCE STANDARDS ESTABLISHED BY THE ABC COMMISSION; PROVIDING FOR STREAMLINED FINANCIAL OPERATIONS OF LOCAL BOARDS BY REQUIRING A BALANCED BUDGET, PUBLIC HEARINGS, AVAILABILITY TO ALL COUNTY NEWS MEDIA, PROVIDING FOR AN INTERIM BUDGET IF NECESSARY, REQUIRING A FINANCE OFFICER FOR EACH LOCAL BOARD, SETTING A TIMELINE FOR BUDGET ADOPTION, SETTING A METHOD FOR AMENDING THE BUDGET, ESTABLISHING A PROCEDURE FOR DISPURSING FUNDS FOR INCURRED OBLIGATIONS, REQUIRING LOCAL BOARD APPROVAL OF ALL BILLS, CLAIMS, AND INVOICES, REQUIRING THE SIGNATURE OF THE FINANCE OFFICER ON CHECKS AND DRAFTS DRAWN ON THE LOCAL BOARDS ACCOUNTS, ESTABLISHING PENALTIES FOR DISBURSING FUNDS WITHOUT PROPER APPROVAL, AND REQUIRING ALL LOCAL BOARDS TO COMPLY WITH THE BUDGET PROVISIONS NOTWITHSTANDING LOCAL ACTS TO THE CONTRARY; ESTABLISHING A SET PROCEDURE FOR REMOVING A LOCAL ABC BOARD MEMBER OR EMPLOYEE BY THE APPOINTING AUTHORITY OR THE COMMISSION, FOR CAUSE, WITH A SET APPEALS PROCESS AND REMEDY FOR IMPROPER REMOVAL; ESTABLISHING REQUIRED PERFORMANCE STANDARDS AND A PROCESS FOR COMPLIANCE; ESTABLISHING REQUIRED ETHICS STANDARDS AND TRAINING FOR ALL LOCAL ABC BOARDS; ESTABLISHING STANDARDS FOR THE LOCATION OF ABC STORES; ESTABLISHING STANDARDS FOR THE CLOSING OF ABC STORES; ESTABLISHING A MINIMUM FIFTY THOUSAND DOLLAR ($50,000) PERFORMANCE BOND FOR LOCAL ABC STORE MANAGERS; CLARIFYING WHOLESALERS' DISTRIBUTION RIGHTS WITH SUCCESSOR SUPPLIERS; AND ALLOWING MINIMUM AGE STANDARDS FOR LAW ENFORCEMENT TO BE SET AT 21 YEARS OF AGE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 reads as rewritten:

"**§ 18B-101. Definitions.**

As used in this Chapter, unless the context requires otherwise:

...

(6f) "Finance officer" means the local board employee, other than a general manager, that is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.

(7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(7d) "General manager" means the local board employee that is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.

~~(7a)~~(7g) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:

a. Is on the national register of historic places or located within a State historic district.

b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).

c. Is located within 15 miles of a national scenic highway.

d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.

~~(7b)~~(7k) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage.

...."

SECTION 2. G.S. 18B-201 reads as rewritten:

"**§ 18B-201. Conflict of ~~interest.~~interest; gifts.**

(a) Financial Interests Restricted. – No person shall be appointed to or employed by the Commission, a local board, or the ALE Division if that person or a member of that person's family related to that person by blood or marriage to the first degree has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit. The Commission may exempt from this provision any person, other than a Commission member, when the financial interest in question is so insignificant or remote that it is unlikely to affect the person's official actions in any way. Exemptions may be granted only to individuals, not to groups or classes of people, and each exemption shall be in writing, be available for public inspection, and contain a statement of the financial interest in question.

(b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the Commission and local boards.

(c) Dealing for Family Members. – Neither the Commission nor any local board shall contract or otherwise deal in any business matter so that a member, member's spouse or any

person related to ~~him~~ the member by blood to a degree of first cousin or closer in any way financially benefits, directly or indirectly, from the transaction unless:

(1) The member who financially benefits from the transaction or whose spouse or relative financially benefits from the transaction abstains from participating in any way, including voting, in the decision;

(2) The minutes of the meeting at which the final decision is reached specifically note the member who is financially benefited or whose spouse or relative is financially benefited and the amount involved in each transaction;

(3) The next annual audit of the Commission or local board specifically notes the member and the amount involved in each transaction occurring during the year covered by the audit; and

(4) If the transaction is by a local board, the Commission is notified at least two weeks before final board approval of the transaction.

(d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the Commission and local boards.

(e) Conflicts of Interest for the Commission. – The provisions of Article 4 of Chapter 138A of the General Statutes shall apply to the Commission.

(f) Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of this section, a local ABC board member shall not knowingly use the local ABC board member's position on the board in any way that will result in financial benefit to the local ABC board member, the local ABC board member's spouse, any person related to the local ABC board member by blood to a degree of first cousin or closer, or any business with which the local ABC board member is associated.

(g) For Purposes of Subsection (f) of this section, 'business with which associated' shall have the same meaning as in G.S. 138A-3(3). For purposes of this section, 'financial benefit' shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

(h) Notwithstanding subsection (f) of this section, a local ABC board member may participate in an action of the local ABC board under any of the following circumstances except as specifically limited:

(1) The financial benefit that accrues to the local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that is accrued as a member of a profession, occupation, or general class and is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.

(2) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that would be enjoyed to an extent no greater than that which other citizens of the State would or could enjoy.

(3) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the local ABC board member's ability to protect the public interest and perform the local ABC board member's duties would not be compromised.

(4) When an action affects or would affect the local ABC board member's compensation as a local ABC board member.

(5) Before the local ABC board member participated in the action, the board member requested and received from the ABC Commission a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the ABC Commission shall consider the need for the local ABC board member's particular contribution, such as special knowledge of the subject matter and the effective functioning of the local ABC board.

(6) When action is ministerial only and does not require the exercise of discretion.

(7) When the local ABC board records in its minutes that it cannot obtain a quorum in order to take the action because the local ABC board member is disqualified from acting, the local ABC board member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(i) Nothing in this section shall allow participation in an action prohibited by G.S. 14-234 or G.S. 133-32.

(j) A local board member shall not improperly use or improperly disclose any confidential information.

(k) A local board member shall have an affirmative duty to promptly disclose in writing to the local board any conflict of interest or potential conflict of interest."

SECTION 3. G.S. 18B-202 reads as rewritten:

"**§ 18B-202. Discharge upon conviction.**

In addition to imposing any other penalty authorized by law, a judge may remove from office or discharge from employment any Commission or local board member or employee, or any ALE agent, who is convicted of a violation of any provision of this Chapter or of any felony and may declare that person ineligible for membership or employment with the Commission, any local board, or the ALE Division, for a period of not longer than three years. Conviction of a crime under this Chapter or of any felony shall also be grounds for the Commission to remove from office or discharge from employment any local board member or employee. In addition to imposing any other penalty authorized by law, a judge may prohibit an individual convicted of a violation of in this Chapter, or of any felony, from participating in any contract to enforce the ABC laws for a local board if that individual is a designated officer of an agency which holds a contract to enforce the ABC laws for a local board. A judge may also prohibit an individual convicted of a violation of in this Chapter, or of any felony, from being designated as an officer that enforces the ABC law under a contract with any local board for a period of not longer than three years."

SECTION 4. G.S. 18B-203(a) is amended by adding two new subdivisions to read:

"**§ 18B-203. Powers and duties of the Commission.**

(a) Powers. – The Commission shall have authority to:

...

(20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, solvency, and customer service.

(21) Promulgate rules to establish mandatory training requirements for local board members, finance officers, and general managers. If personal attendance is required, the Commission shall not require more than four hours of training and shall provide up to two hours of training at convenient locations around the State in conjunction with ethics training.

(22) Provide for the purchase of spirituous liquor from another ABC board by mixed beverage permittees when an ABC system becomes insolvent, closes, or is closed by the Commission and the county or municipality in which the system is located has approved the sale of mixed beverages."

SECTION 5. G.S. 18B-501(f) reads as rewritten:

"(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to a sheriff's department, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the designated officers of the contracting law-enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An agency contracted to provided ABC law enforcement shall designate no more than five officers to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement."

SECTION 6. G.S. 18B-501 is amended by adding a new section to read:

"(f1) Accountability; Enforcement Reports.. – To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each month, on a form developed by the Commission, the following:

(1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.

(2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.

(3) The number of agencies assisted with ABC law or controlled substance related matters.

(4) The number of alcohol education and responsible server programs presented.

The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission."

SECTION 7. G.S. 18B-501(g) reads as rewritten:

"(g) Discharge. – Local ABC officers and the designated officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge and ineligibility provisions of G.S. 18B-202."

SECTION 8. G.S. 18B-600(e) reads as rewritten:

"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election ~~only if:~~if the city has at least 1000 registered voters. Provided, that if a city that qualifies for an election under this subsection approves the sale of mixed beverages, mixed beverages permittees in the city may purchase liquor from the ABC store designated by the local ABC board that has been approved by the Commission for this purpose.

~~(1) The city has at least 500 registered voters; and~~

~~(2) Either:~~

~~a. The city already operates a city ABC store; or~~

~~b. A city ABC store election is to be held at the same time as the mixed beverage election; or~~

~~c. The city does not operate a city ABC store but:~~

~~1. The county operates an ABC store;~~

~~2. The county has already held a mixed beverage election; and~~

~~3. The vote in the last county election was against the sale of mixed beverages.~~"

SECTION 9. G.S. 18B-700(a) reads as rewritten:

"(a) Membership. – A local ABC board shall consist of three or five members appointed for three-year ~~terms, unless a different membership or term is provided by a local act enacted before the effective date of this Chapter, or~~ terms unless the board is a board for a merged ABC system under G.S. 18B-703 and a different size membership has been provided for as part of the negotiated merger. ~~One~~ If the board is a three member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, one member for a two-year term, and one member for a one-year term. If the board is a five member board, one member of the initial board of a newly created ABC system shall be appointed for a three-year term, two members for two-year terms, and two members for one-year terms. As the terms of initial board members expire, their successors shall each be appointed for three-year terms. If a board is initially a three member board and the appointing authority determines a five member board is preferable, the terms of the two new members shall be for three years. If a local board has five members and the appointing authority determines a three member board is preferable, the appointing authority shall not reduce the size of the board except upon the expiration of a members term and only with the approval of the Commission. The appointing authority shall designate one member of the local board as chairman."

SECTION 10. G.S. 18B-700 is amended by adding a new subsection to read:

"(a1) Mission. – The mission of local ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores."

SECTION 11. G.S. 18B-700(g) reads as rewritten:

"(g) ~~Salary.~~Compensation of Board Members. – A local board member ~~may be compensated as determined by the appointing authority.~~shall receive compensation in an amount not to exceed one hundred fifty dollars ($150.00) per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. No local board member shall receive any nonmonetary compensation or benefits unless specifically authorized by this section."

SECTION 12. G.S. 18B-700 is amended by adding a new subsection to read:

"(g1) Compensation of General Managers of Local Boards. – The salary authorized for the general manager, as defined in G.S. 18B-101, of a local board shall not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. The general manager of a local board may receive any other benefits to which all employees of the local board are entitled. The salary authorized for other employees of a local board may not exceed that of the general manager."

SECTION 13. G.S. 18B-700 is amended by adding a new subsection to read:

"(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless the local board adopts a travel policy that conforms to the travel policy of the appointing authority and such policy is approved by the appointing authority. The local board shall annually provide the appointing authority's written confirmation of such approval to the Commission and a copy of the travel policy authorized by the appointing authority. Any excess expenses not covered by the local board's travel policy shall only be paid with the written authorization of the appointing authority's finance officer. A copy of the written authorization for excess expenses shall be submitted to the Commission by the local board within 30 days of approval."

SECTION 14. G.S. 18B-700(i) reads as rewritten:

"(i) Bond. – Each local board member and the employees designated as the general manager and finance officer of the local board shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~fifty thousand dollars ($50,000) secured by a corporate surety, for the faithful performance of his duties. A public employees' blanket position bond in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may ~~exempt from this bond requirement any board member who does not handle board funds, and it may also~~ increase the amount of the bond required for any member or employee who ~~does handle~~handles board funds."

SECTION 15. G.S. 18B-700 is amended by adding a new subsection to read:

"(k) Nepotism. – Members of an immediate family shall not be employed within the local board if such employment will result in one member of the immediate family supervising another member of the immediate family, or if one member of the immediate family will occupy a position which has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This subsection applies to local board members and employees.

For the purpose of this subsection, the term immediate family includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations."

SECTION 16. G.S. 18B-700 is amended by adding a new subsection to read:

"(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 17. G.S. 18B-701 reads as rewritten:

"**§ 18B-701. Powers and duties of local ABC boards.**

(a) Powers. – A local board shall have authority to:

(1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;

(2) Adopt rules for its ABC system, subject to the approval of the Commission;

(3) Hire and fire employees for the ABC system;

(4) Designate one employee as manager of the ABC system and determine his responsibilities;

(5) Require bonds of employees as provided in the rules of the Commission;

(6) Operate ABC stores as provided in Article 8;

(7) Issue purchase-transportation permits as provided in Article 4;

(8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;

(9) Borrow money as provided in G.S. 18B-702;

(10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
(11) Invest surplus funds as provided in G.S. 18B-702;
(12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
(13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all rules adopted by the Commission pursuant to this Chapter and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission rules shall be cause for removal."

SECTION 18. G.S. 18B-702 reads as rewritten:

"**§ 18B-702. Financial operations of local boards.**

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Budget Officer. – The general manager of the local board shall be the budget officer for the local board. In the absence of a general manager, a local board may impose the duties of budget officer on the chairman or any member of the local board or any other employee of the board.

(c) Annual Balanced Budget. – Each local board shall operate under an annual balanced budget administered in accordance with this section. A budget is balanced when the sum of estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any other provision of law, no local board may expend any monies, regardless of their source, except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

(d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer, the budget officer shall prepare a budget for consideration by the local board in such form and detail as may have been prescribed by the budget officer or the local board. The budget, together with a budget message, shall be submitted to the local board, the appointing authority, and the Commission not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the goals fixed by the budget for the budget year, should explain important features of the activities anticipated in the budget, should set forth the reasons for stated changes from the previous year in appropriation levels, and should explain any major changes in fiscal policy.

(e) Filing and Publication of the Budget. – On the same day the budget officer submits the budget to the local board, the budget officer shall make a copy for public inspection, and it shall remain available for public inspection until the budget is adopted. The budget officer shall make a copy of the budget available to all news media in the county. The budget officer shall also publish a statement that the budget has been submitted to the local board and is available for public inspection in the office of the general manager of the local board. The statement shall also give notice of the time and place of the budget hearing required by subsection (f) of this section.

(f) Budget Hearings. – Before adopting the budget, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making

appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

(1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.

(2) The full amount of any deficit in each fund shall be appropriated.

(3) Working capital funds set aside pursuant to G.S. 18B-805 shall be established by rule of the Commission. "Working capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.

(4) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.

(5) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.

(6) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

The budget shall be entered in the minutes of the local board and within five days after adoption, and copies thereof shall be filed with the finance officer, the budget officer, the appointing authority, and the Commission.

(h) Amendments to the Budget. – Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section. The local board by appropriate resolution may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the local board at its next regular meeting and shall be entered in the minutes. Amendments to the adopted budget shall also be provided to the appointing authority and the Commission.

(i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the local board shall make interim appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local board for the interval between the beginning of the budget year and the adoption of the budget. Interim appropriations so made shall be charged to the proper appropriations in the adopted budget.

(j) Finance Officer. – Except as otherwise provided, the local board shall designate (i) a part-time or full-time employee of the board other than the general manager or (ii) the finance officer of the appointing authority with consent of the appointing authority to be the finance officer for the local board. The Commission, for good cause shown, may allow the general manager of a board to also be the finance officer. Good cause includes, but is not limited to, the fact that the board operates no more than two stores, and any approval for the general manager to also be the finance officer shall apply until the board operates more than two stores; in any event, the approval shall be effective for 36 months.

(k) Duties and Powers of the Finance Officer. – The finance officer for a local board shall:

(1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.

(2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, and preaudit obligations, and disbursements as required by this section.

(3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.

(4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.

(5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.

(6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

The finance officer shall perform such other duties as may be assigned by law, by the general manager, budget officer, or local board, or by rules and regulations of the Commission.

(l) Accounting System. – Each local board shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget originally adopted and subsequently amended.

(m) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget unless the budget includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project unless the budget authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the local board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by G.S. 18B-702.

_____

(Signature of finance officer)."

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(n) Disbursements. – When a bill, invoice, or other claim against a local board is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget or a capital project or a grant project authorized by the budget, the finance officer may approve the claim only if:

(1) The finance officer determines the amount to be payable; and

(2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (o) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved in the manner required by G.S. 18B-702.

_____

(Signature of finance officer)."

No certificate is required on payroll checks or drafts on an imprest account in an official depository if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars ($50.00) or less from a petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

~~(b)~~(r) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

~~(c)~~(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a budget officer, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds. The Commission may vary these rules and regulations according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. The Commission has the authority to inquire into and investigate the internal control procedures of a local board and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

(v) Penalties. – If a board member or employee of a local board incurs an obligation or pays out or causes to be paid out any funds in violation of this section, the member or employee and the sureties on the official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, the finance officer and the sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

(x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 19. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-704. Removal of local board members and employees.**

(a) Improper Influence. – Neither the Commission nor its individual members shall attempt to coerce any appointing authority to appoint a particular person as a member of a local board or attempt to coerce a local board to employ any particular applicant.

(b) Purpose. – This section is intended to provide a uniform system of removal for appointing authorities and the Commission.

(c) Cause for Removal. – Disqualification of a local board member or employee under the law, a violation of the ABC laws, failure to complete training required by this Chapter or the Commission, or engaging in any conduct constituting moral turpitude or which brings the local board or the ABC system into disrepute is cause for the Commission to remove any

member or employee of a local board. The employment or retention of any employee who is known to be disqualified under the law to hold a position with a local board is cause for the Commission to remove the board members involved.

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

(e) Removal Hearing. – Any local board member or employee removed from office or discharged by the Commission or the appointing authority may request a hearing before the Commission. Such a request operates to stay the action of the Commission or the appointing authority with regard to the matter until after the hearing, unless the Commission finds that the public interest requires immediate action. At the hearing, the employee or the employee's counsel may examine all evidence used against the employee and present evidence in the employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of the General Statutes. All hearings shall be conducted informally and in such manner as to preserve the substantial rights of the parties.

(f) Hearing Procedure. – The Commission shall hold the hearing required by subsection (e) of this section within 15 days of the member's or employee's request for a hearing. The standard of review by the Commission is de novo. The Commission or appointing authority shall be represented by a Commission hearing officer. The Commission shall discharge the member or employee if two-thirds of the Commission's members vote for removal. The Commission shall make findings of fact. The Commission may adopt the findings of fact of the Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

(g) Commission Authority. – The Commission shall have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission. The Commission's decision in a removal hearing is final.

(h) Appeal. – A local board member or employee may appeal the Commission's final decision to the Court of Appeals. The standard of review for an appeal shall be abuse of discretion. The sole remedy for a local board member or employee shall be the reinstatement of the board member or employee to the local board with back pay. All awards for back pay shall be paid by the local board from which the board member or employee was removed.

(i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this section replaces or is intended to replace a local board's policy regarding the termination of an employee for personnel reasons. The removal process under this section is reserved solely for the appointing authority or the Commission to remove a board member or employee for cause.

(j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 20. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-705. Compliance with performance standards; remedies.**

(a) Local Board Compliance. – The Commission shall establish performance standards pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply with established performance standards by conducting regular or special audits, conducting performance evaluations, or taking other measures, which may include inspections by Commission auditors or alcohol law-enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission and the local board, shall develop and deliver a performance improvement plan to the local board within 60 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, 12 months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards identified in the statement of findings cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case less than 12 months, the Commission shall take appropriate action to avoid insolvency. This action may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores, or merging the local board with another local board in order to maintain solvency. The Commission may also seize the assets of the local board and liquidate any assets necessary to satisfy any debt in order to maintain the solvency of the local board. Prior to taking action pursuant to this subsection, the Commission shall issue a notice of intent to take such action to the appointing authority and the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 21. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-706. Ethics requirements for local boards.**

(a) Each local board shall adopt a policy containing a code of ethics, consistent with the provisions of G.S. 18B-201, to guide actions by the local board members and employees of the local board in the performance of their official duties. The policy shall address at least all of the following:

(1) The need to obey all applicable laws regarding official actions taken as a local board member or employee.

(2) The need to uphold the integrity and independence of the local board member or employee's position.

(3) The need to avoid impropriety in the exercise of official duties.

(4) The need to faithfully perform the duties of the position.

(5) The need to conduct the affairs of the board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(b) Each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment to the office and again within 12 months after each subsequent appointment to the office. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct for local ABC boards. The education may be provided by the Commission or other qualified source approved by the Commission. The local board shall maintain a record verifying receipt of the ethics

education by each member of the local board. The local board may require appropriate ethics training and education for employees of the local ABC board.

(c) The Commission shall develop a model ethics policy that local ABC boards may adopt to be in compliance with this section."

SECTION 22. G.S. 18B-801(b) reads as rewritten:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely ~~affected; and~~affected.

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

(3) The proximity of the new location to existing ABC stores operated by the local board or any other board."

SECTION 23. G.S. 18B-801(c) reads as rewritten:

"(c) Closing of Stores. – Subject to the provisions of ~~subsection (a),~~ subsection (a) of this section, a local board may ~~close,~~ close a store, or the Commission may order a local board to ~~close,~~ close any store when the local board or the Commission determines that:

~~(1) The operation of the store is not sufficiently profitable to justify its continuation;~~

(2) The store is not operated in accordance with the ABC law; or

(3) The continued operation of that store will adversely affect the health, safety, or general welfare of the community in which the store operates."

SECTION 24. G.S. 18B-803 reads as rewritten:

"**§ 18B-803. Store management.**

(a) Manager. – A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. – Each store manager shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~ fifty thousand dollars ($50,000) secured by a corporate surety, for the honest performance of his duties. A public employees' blanket position bond, honesty form, in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of bond required for store managers under this subsection.

(c) Bonding of Other Employees. – A local board or the appointing authority may require any of its other employees who handle funds to obtain bonds. The amount and form of those bonds shall be determined by the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 25. G.S. 18B-1213 reads as rewritten:

"**§ 18B-1213. Obligations of purchaser.**

The purchaser of a ~~winery~~winery, and any successor to the rights of a winery, is obligated to all the terms and conditions of an agreement in effect on the date of the ~~purchase,~~purchase or other acquisition of the right to distribute a brand, except for good cause, which includes,

(1) Revocation of the wholesaler's permit or license to do business in this State,

(2) Bankruptcy or insolvency of the wholesaler,

(3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler, or

(4) Failure by the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon ~~him~~ the wholesaler by the winery.

As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease, transfer, or consolidation."

SECTION 26. G.S. 93B-9 reads as rewritten:

"**§ 93B-9. Age requirements.**

Any other provision notwithstanding, except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission pursuant to Chapters 17C, 17E, 74E, and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license."

SECTION 27. Section 6 of this act becomes effective January 1, 2011. Sections 12 and 15 of this act become effective October 1, 2010, and apply to general managers and employees hired on or after that date. Section 16 of this act becomes effective October 1, 2011. Section 18 of this act becomes effective May 1, 2011, and is applicable for local board fiscal years beginning July 1, 2011. The ABC Commission shall offer training and education to local boards to assist local boards in complying with Section 18 of this act, and such training and education shall be offered at least once annually after the effective date of this act; however, the Commission shall have no obligation to provide such training and education after December 31, 2013. Section 25 of this act is effective when it becomes law and its provisions shall apply to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in North Carolina following the effective date of Section 25 of this act shall constitute acceptance by the supplier of the terms of this act and shall be incorporated into the agreement between the supplier and wholesaler. Section 26 of this act is effective when it becomes law. The remainder of this act becomes effective October 1, 2010.

HOUSE BILL 1717:
Modernization of the State ABC System

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	June 15, 2010
Introduced by:	Reps. R. Warren, Bell, Lucas	**Prepared by:**	Shirley Iorio, Ph D and Theresa Matula* Legislative Analysts
Analysis of:	PCS to Second Edition H1717-CSMA-35		

SUMMARY: This proposed committee substitute (PCS) for House Bill 1717 makes a number of changes to the State's ABC laws, many of which were recommended by a joint legislative study committee on Alcoholic Beverage Control issues.

The PCS makes the following changes to the Second Edition:

- ***Adds more detail to the long title;***
- ***Adds subdivision (22) to Section 4;***
- ***Adds the phrase "and ineligibility" to Section 7;***
- ***Changes from 500 to 1000 the number of registered voters needed to hold a mixed beverage election and ensures that the city that votes can get liquor from an ABC board designated by the ABC Commission in Section 8;***
- ***Adds Section 9; and***
- ***Makes various technical changes such as correcting typos and renumbering sections.***

[As introduced, this bill was identical to S1112, as introduced by Sen. Vaughan, which is currently in Senate Judiciary II.]

BILL ANALYSIS: **Section 1** of the bill would provide definitions for the finance officer and the general manager of local ABC boards. The finance officer is the person responsible for keeping the accounts of the local board, including receiving and depositing receipts and disbursing funds. The general manager is the person responsible for the oversight of daily operations of the ABC system. (*Note: Section 18 of the bill requires the local board to designate an employee other than the general manager to be the finance officer of the local board. For good cause, the Commission may allow the board's general manager to also be the finance officer.)*

Section 2 of the bill would amend the law pertaining to conflicts of interest and gifts. Current law prohibits a person who has a financial interest in a commercial ABC enterprise from being appointed to or employed by the State ABC Commission, a local board, or the Alcohol Law Enforcement (ALE) Division, and current criminal prohibitions against public officers or employees benefiting from public contracts apply to the ABC Commission and local ABC boards. The bill would apply the provisions of G.S. 133-32 to the ABC Commission and local ABC boards, making it unlawful for contractors or suppliers who have or seek to have a contract with the Commission or local board to make gifts or to give favors to any Commission or local board officers or employees; it would also be unlawful for an officer or employee to accept such gifts. The bill would make the ABC Commission subject to the Ethical Standards of the State Ethics Acts, which prohibits the use of public position for private gain, prohibits certain gifts and other compensation, prohibits the use of information for private gain, and sets other rules of conduct for public servants. The bill would provide specific guidelines pertaining to conflicts of interest for local ABC boards, prohibiting a local board member from knowingly using his or her position in a manner that would result in financial benefit to the local board member, to his or her ıouse or near relative, or to any business with which the local board member is associated. The bill would ohibit a local board member from improperly using or disclosing any confidential information, and would ımpose an affirmative duty on every local board member to promptly disclose in writing to the local board any actual or potential conflict of interest.

Section 3 of the bill would amend the law concerning judicial authority to remove from office or discharge from employment any Commission or local board member or employee, or any ALE agent who violates the State's alcohol laws or commits any felony. The bill would make the discharge provision applicable to local law enforcement officers who serve as the designated officer of an agency which holds a contract to enforce the ABC laws for a local board, giving the judge authority to prohibit the officer from being designated as an officer that enforces the ABC law, for a period up to 3 years.

Section 4 of the bill would give the ABC Commission authority to adopt rules to establish performance standards for local boards, including standards that address enforcement of ABC laws, store appearance, operating efficiency, solvency and customer service and to set mandatory training requirements for local board members, managers, and employees. The Commission would also have authority to provide for the purchase of spirituous liquor from another ABC board by mixed beverage permittees in cities or counties where an ABC system becomes insolvent, closes, or is closed by the Commission.

Section 5 of the bill would provide that not more than five officers may be designated by a contracting law enforcement agency to conduct inspections of ABC-licensed premises. Under current law, inspections conducted by designated officers may include viewing the entire premises and examining the books and records of the permittee.

Section 6 of the bill would require local boards' ABC officers and law enforcement agencies subject to enforcement agreements with a local board to provide monthly reports to the local board, including information on the number of arrests made for ABC law and controlled substance violations and other violations at ABC-permitted outlets and other locations, the number of agencies assisted with ABC law or controlled substance related matters, and the number of alcohol education and responsible server programs presented. The local board would be required to submit a copy of the report to its appointing authority and to the ABC Commission; and the ABC Commission would be required to publish the information on a public Internet website. This section would become effective January 1, 2011.

Section 7 of the bill would make a conforming change to the statute pertaining to local ABC officers, making it clear that designated officers of agencies that contract with local boards for enforcement of the ABC laws are subject to statutory provisions concerning both discharge from those duties and a potential period of ineligibility of not longer than three years.

Section 8 of the bill would allow any city that has at least 1000 registered voters to hold a mixed beverage election. If a city that qualifies for an election under this section approves the sale of mixed beverages, mixed beverages permittees in the city would be permitted to purchase liquor from the ABC store designated by the local ABC board approved by the Commission for this purpose. This section would eliminate the current requirement that the city already operate a city ABC store in order to hold the mixed beverage election or if not, the county either operates an ABC store or has already held a mixed beverage election and the vote was against the sale of mixed beverages.

Section 9 of the bill would allow a local ABC board to have either three or five members on the board unless the board is for a merged ABC system and a different size membership has been provided for as part of the negotiated merger. Currently a local ABC board consists of three members. A local board may increase its initial membership, at the appointing authority's discretion, from three to five members, or the board may decrease its initial membership from five to three members upon the expiration of terms and with approval of the Commission. This section also sets out the terms for new members.

Section 10 of the bill would define the mission of local ABC boards and their employees: to responsibly serve their localities by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores.

Section 11 of the bill would limit the compensation of local ABC board members to not more than $150 per meeting, unless a different level of monetary compensation is approved by the board's appointing authority. If a different level of compensation is approved, the appointing authority would be required to provide written notice to the ABC Commission.

Section 12 of the bill would limit the compensation of general managers of local ABC boards. The salary authorized for the board's general manager could not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated. Under G.S. 7A-101, the salaries of clerks of superior court are based on the population of the county. The annual salary amount is often amended in budget bills. The following schedule was enacted by S.L. 2008-107, Sec. 26.5:

Population	Annual Salary
Less than 100,000	$ 82,401
100,000 to 149,999	92,468
150,000 to 249,999	102,536
250,000 and above	112,607

The bill provides that a different level of monetary compensation may be approved by the board's appointing authority. If a different level of compensation is approved, the appointing authority would be required to provide written notice to the ABC Commission. The bill provides that no employee of a local board may receive a salary in excess of the amount authorized for the salary of the general manager. This section would become effective October 1, 2010 and apply to general managers and employees hired on or after that date.

Section 13 of the bill provides for members and employees of local ABC boards to be reimbursed for travel on official business in accordance with the statutory travel allowances of State officers and employees. With approval of the appointing authority, a local board may adopt a travel policy that conforms to the travel policy of the appointing authority. The local board would be required to annually provide to the Commission a copy of its travel policy along with the appointing authority's written confirmation of its approval. Excess expenses not covered by the local board's travel policy would be paid only with written authorization of the appointing authority's finance officer, and the local board would be required to submit a copy of the authorization to the ABC Commission within 30 days of approval.

Section 14 of the bill would increase the minimum amount of the bond required for local ABC board members and for the employees designated as the general manager and finance officer of the local board, raising it from $5,000 to $50,000. No board member would be exempt from the requirement, and the appointing authority could require a higher bond amount for any board member or employee who handles board funds.

Section 15 of the bill would prohibit members of an immediate family or members of the same household from ing employed within a local board if the employment would result in one family or household member pervising another, or if one family or household member would occupy a position that has influence over the employment, promotion, or salary administration of another. The provision would apply to local board members and employees. The language in this section mirrors the nepotism policy for State employees. This section would become effective October 1, 2010 and apply to employees hired on or after that date.

Section 16 of the bill would make the provisions of G.S. 18B-700 regarding the appointment and organization of local ABC boards applicable to all local ABC boards, notwithstanding any local acts that may provide otherwise. This section would become effective October 1, 2011.

Section 17 of the bill would require a local ABC board to comply with all rules adopted by the ABC Commission pursuant to its authority under the State's ABC laws, and to meet all standards set by the Commission for performance and training. Failure to comply with Commission rules would be grounds for removal.

Section 18 of the bill would amend the statute pertaining to the financial operations of local boards. A local board would be required to operate under an annual balanced budget in accordance with provisions in the bill. All monies received and expended by a local board would be included in the budget, and no local board could expend any monies except in accordance with the budget. The general manager of the local board, as budget officer, would prepare a budget for consideration by the local board. The proposed budget would be submitted to the local board, its appointing authority, and the ABC Commission by June 1; and a copy would be made available for public inspection. Before adopting the budget, the board would be required to hold a public hearing. This section of the bill would establish specific directions and limitations that a local board must comply with in adopting its budget. Once the budget is adopted, it must be filed with the board's finance officer and budget officer, the board's appointing authority, and the ABC Commission. The bill would provide for amendments to an adopted budget and for an interim budget in case adoption of the budget is delayed until after the start of the fiscal year. Except as otherwise allowed, the bill would require the local board to designate an employee other than the general manager to be the finance officer of the local board, and would set out the duties and powers of the finance officer. For ood cause, the Commission may allow the board's general manager to also be the finance officer. Each local ard would be required to establish and maintain an accounting system designed to show in detail its assets, bilities, revenues, and expenditures. The bill contains specific provisions relative to incurring obligations, disbursements, and local board approval of bills, invoices, or claims. All checks or drafts must be signed by the finance officer or a properly designated deputy finance officer, and countersigned by the chair of the local board or the general manager, except where the requirement for dual signatures is waived by the Commission. Audits

and reports currently required to be submitted to the ABC Commission must also be submitted to the local board's appointing authority. The bill would give the ABC Commission specific authority to inquire into and investigate the internal control procedures of a local board, and to require any modifications necessary or desirable to prevent the embezzlement or mishandling of public monies. The finance officer and sureties on the official bond would be liable for any sums committed or disbursed in violation of the law. The provisions pertaining to financial operations of local boards would apply to all local boards, notwithstanding any local acts. This section would become effective May 1, 2011 and would apply to local board fiscal years beginning July 1, 2011. To ensure compliance with the changes in this section, the ABC Commission is required to offer training and education to local boards at least once annually after the effective date of the act and until December 31, 2013.

Section 19 of the bill would prohibit the ABC Commission or its individual members from attempting to coerce any appointing authority to appoint a particular person as a member of a local board, or attempting to coerce a local board to employ a particular applicant. It would give the ABC Commission authority to remove any member or employee of a local board for disqualification under the law, violation of the ABC laws, failure to complete required training, or engaging in conduct constituting moral turpitude or which brings the local board of the ABC system into disrepute. The bill sets out a removal process that requires written findings of fact upon which the decision for removal is based, and provides for an informal removal hearing before the ABC Commission. The Commission would have authority to discharge the board member or employee if two-thirds of the Commission's members vote for removal. The Commission would have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission, and the Commission's decision would be final. The local board member or employee could appeal the Commission's final decision to the Court of Appeals. The standard of review is abuse of discretion, and the sole remedy would be reinstatement with back pay. Awards for back pay would be paid by the local board from which the board member or employee was removed. These provisions would apply to all local boards.

Section 20 of the bill would require the ABC Commission to establish performance standards, and to ensure that all local boards comply with those standards by conducting regular or special audits, performance evaluations, monitoring ABC law enforcement efforts, or taking other measures including inspections by Commission auditors or alcohol law enforcement agents. When a local board fails to meet established performance standards, the Commission would be required to meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority would, in consultation with the Commission, develop and deliver a performance improvement plan to the local board. The plan would include recommendations for improved performance, and state a period of time in which improvements are to occur and what actions will be taken by the Commission if performance standards are not met within the prescribed time limits. The appointing authority may allow no more than 6 months for the local board to implement and show improvement under the plan; however, upon a showing of good cause and in consultation with the ABC Commission, the appointing authority may allow up to an additional 6 month period of time for the local board to meet all requirements in the improvement plan and to establish that performance standards are met. If the Commission determines that the established performance standards cannot be met after a performance improvement plan has been implemented and adequate time has been given, the Commission would be required to take appropriate action to ensure profitability. The Commission would have authority to close the local board or one or more of its stores, or to merge the local board with another local board in order to maintain solvency and meet community needs. The Commission would also have authority to seize the assets of the local board and liquidate assets necessary to satisfy debt and maintain solvency of the local board.

Section 21 of the bill would require each local ABC board to adopt a policy containing a code of ethics consistent with statutory provisions concerning conflicts of interests and gifts. *(See Section 2 of the bill.)*

Each member of a local board would be required to receive a minimum of 2 hours of ethics education within 12 months after initial appointment to the board, and again within 12 months after each subsequent appointment to the office. The education may be provided by the ABC Commission or by some other qualified source approved by the Commission. A local board may require appropriate ethics training and education for its employees.

Section 22 of the bill would authorize the ABC Commission to consider the proximity of a new ABC store location to existing ABC stores when making its decision regarding approval of the new location.

Section 23 of the bill would remove a local board's authority and the Commission's authority to order a local board to close an ABC store when the local board or the Commission determines that the operation of the store is not sufficiently profitable to justify its continuation.

ection 24 of the bill would increase the minimum amount of the bond required for ABC store managers, raising it from $5,000 to $50,000. An appointing authority may require a bond that exceeds the minimum amount.
Section 25 of the bill would amend G.S. 18B-1213 concerning the obligations of the purchaser of a winery, making it clear that the purchaser as well as *any successor to the rights of a winery* is obligated to all the terms and conditions of an agreement in effect on the date of the purchase *or other acquisition of the right to distribute a brand.* This section would become effective when it becomes law and apply to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in this State following the effective date would constitute acceptance by the supplier of the terms of the bill and be incorporated into the agreement between the supplier and wholesaler.
Section 26 of the bill would create an exception to the law that prohibits occupational licensing boards from requiring that an individual be more than 18 years of age as a requirement for receiving a license. The exception would apply to certifications issued by the Criminal Justice Education and Training Standards Commission and the North Carolina Sheriffs' Education and Training Standards Commission. This section would become effective when it becomes law.
Section 27 of the bill contains the effective dates.

EFFECTIVE DATE: Except as otherwise specified, the bill would become effective October 1, 2010.

Brenda Carter, counsel to the House Alcoholic Beverage Control Committee, substantially contributed to this summary.

H1717-SMSF-118(CSMA-35) v6

HOUSE BILL 1717*
Committee Substitute Favorable 6/9/10

Short Title: Modernization of the State ABC System. (Public)

Sponsors:

Referred to:

May 17, 2010

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, TO ENSURE THE INTEGRITY OF THE THREE TIER SYSTEM, AND TO REQUIRE MINIMUM STANDARDS AGE STANDARDS LAW ENFORCEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 reads as rewritten:

"**§ 18B-101. Definitions.**

As used in this Chapter, unless the context requires otherwise:

...

(6f) "Finance officer" means the local board employee, other than a general manager, that is responsible for keeping the accounts of the local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission.

(7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(7d) "General manager" means the local board employee that is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. The board may designate only one employee to be the general manager.

~~(7a)~~(7g) "Historic ABC establishment" means a restaurant or hotel that meets all of the following requirements:

a. Is on the national register of historic places or located within a State historic district.

b. Is a property designed to attract local, State, national, and international tourists located on a State Route (SR) and with a property line located within 1.5 miles of the intersection of a designated North Carolina scenic byway as defined in G.S. 136-18(31).

c. Is located within 15 miles of a national scenic highway.

d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.

~~(7b)~~(7k) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage.

...."

SECTION 2. G.S. 18B-201 reads as rewritten:

"**§ 18B-201. Conflict of ~~interest.~~interest; gifts.**

(a) Financial Interests Restricted. – No person shall be appointed to or employed by the Commission, a local board, or the ALE Division if that person or a member of that person's family related to that person by blood or marriage to the first degree has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have an ABC permit. The Commission may exempt from this provision any person, other than a Commission member, when the financial interest in question is so insignificant or remote that it is unlikely to affect the person's official actions in any way. Exemptions may be granted only to individuals, not to groups or classes of people, and each exemption shall be in writing, be available for public inspection, and contain a statement of the financial interest in question.

(b) Self-dealing. – The provisions of G.S. 14-234 shall apply to the Commission and local boards.

(c) Dealing for Family Members. – Neither the Commission nor any local board shall contract or otherwise deal in any business matter so that a member, member's spouse or any person related to ~~him~~ the member by blood to a degree of first cousin or closer in any way financially benefits, directly or indirectly, from the transaction unless:

(1) The member who financially benefits from the transaction or whose spouse or relative financially benefits from the transaction abstains from participating in any way, including voting, in the decision;

(2) The minutes of the meeting at which the final decision is reached specifically note the member who is financially benefited or whose spouse or relative is financially benefited and the amount involved in each transaction;

(3) The next annual audit of the Commission or local board specifically notes the member and the amount involved in each transaction occurring during the year covered by the audit; and

(4) If the transaction is by a local board, the Commission is notified at least two weeks before final board approval of the transaction.

(d) Gifts Generally. – The provisions of G.S. 133-32 shall apply to the Commission and local boards.

(e) Conflicts of Interest for the Commission. – The provisions of Article 4 of Chapter 138A of the General Statutes shall apply to the Commission.

(f) Conflicts of Interest for Local Boards. – Except as permitted under subsection (h) of this section, a local ABC board member shall not knowingly use the local ABC board member's position on the board in any way that will result in financial benefit to the local ABC board member, the local ABC board member's spouse, any person related to the local ABC board member by blood to a degree of first cousin or closer, or any business with which the local ABC board member is associated.

(g) For Purposes of Subsection (f) of this section, 'business with which associated' shall have the same meaning as in G.S. 138A-3(3). For purposes of this section, 'financial benefit' shall mean a direct pecuniary gain or loss, or a direct pecuniary loss to a business competitor.

(h) Notwithstanding subsection (f) of this section, a local ABC board member may participate in an action of the local ABC board under any of the following circumstances except as specifically limited:

(1) The financial benefit that accrues to the local ABC board member, the local ABC board member's spouse or any person related to the local ABC board

member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that is accrued as a member of a profession, occupation, or general class and is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.

(2) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is associated is one that would be enjoyed to an extent no greater than that which other citizens of the State would or could enjoy.

(3) The financial benefit derived by a local ABC board member, the local ABC board member's spouse or any person related to the local ABC board member by blood to a degree of first cousin or closer, or a business with which the local ABC board member is so remote, tenuous, insignificant, or speculative that a reasonable person would conclude under the circumstances that the local ABC board member's ability to protect the public interest and perform the local ABC board member's duties would not be compromised.

(4) When an action affects or would affect the local ABC board member's compensation as a local ABC board member.

(5) Before the local ABC board member participated in the action, the board member requested and received from the ABC Commission a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the ABC Commission shall consider the need for the local ABC board member's particular contribution, such as special knowledge of the subject matter and the effective functioning of the local ABC board.

(6) When action is ministerial only and does not require the exercise of discretion.

(7) When the local ABC board records in its minutes that it cannot obtain a quorum in order to take the action because the local ABC board member is disqualified from acting, the local ABC board member may be counted for purposes of a quorum but shall otherwise abstain from taking any further action.

(i) Nothing in this section shall allow participation in an action prohibited by G.S. 14-234 or G.S. 133-32.

(j) A local board member shall not improperly use or improperly disclose any confidential information.

(k) A local board member shall have an affirmative duty to promptly disclose in writing to the local board any conflict of interest or potential conflict of interest."

SECTION 3. G.S. 18B-202 reads as rewritten:

"**§ 18B-202. Discharge upon conviction.**.

In addition to imposing any other penalty authorized by law, a judge may remove from office or discharge from employment any Commission or local board member or employee, or any ALE agent, who is convicted of a violation of any provision of this Chapter or of any felony and may declare that person ineligible for membership or employment with the Commission, any local board, or the ALE Division, for a period of not longer than three years. Conviction of a crime under this Chapter or of any felony shall also be grounds for the Commission to remove from office or discharge from employment any local board member or employee. In addition to imposing any other penalty authorized by law, a judge may prohibit a

designated officer of an agency which holds a contract to enforce the ABC laws for a local board who is convicted of a violation of this Chapter or of any felony from participating in any contract to enforce the ABC laws for a local board and may prohibit the officer from being designated as an officer that enforces the ABC law under a contract with a local board for a period of not longer than three years."

SECTION 4. G.S. 18B-203(a) is amended by adding two new subdivisions to read:

"**§ 18B-203. Powers and duties of the Commission.**

(a) Powers. – The Commission shall have authority to:

...

(20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, solvency, and customer service.

(21) Promulgate rules to establish mandatory training requirements for local board members, finance officers, and general managers. The Commission shall not require more than four hours of training and shall provide up to two hours of training at convenient locations around the State in conjunction with ethics training if personal attendance is required."

SECTION 5. G.S. 18B-501(f) reads as rewritten:

"(f) Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to a sheriff's department, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the designated officers of the contracting law-enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An agency contracted to provided ABC law enforcement shall designate no more than five officers to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement."

SECTION 6. G.S. 18B-501 is amended by adding a new section to read:

"(f1) Accountability; Enforcement Reports. – To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each month, on a form developed by the Commission, the following:

(1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.

(2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.

(3) The number of agencies assisted with ABC law or controlled substance related matters.

(4) The number of alcohol education and responsible server programs presented.

The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission."

SECTION 7. G.S. 18B-501(g) reads as rewritten:

"(g) Discharge. – Local ABC officers and the designated officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge provisions of G.S. 18B-202."

SECTION 8. G.S. 18B-600(e) reads as rewritten:

"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election ~~only if:~~if the city has at least 500 registered voters.

~~(1) The city has at least 500 registered voters; and~~

~~(2) Either:~~

~~a. The city already operates a city ABC store; or~~

~~b. A city ABC store election is to be held at the same time as the mixed beverage election; or~~

~~c. The city does not operate a city ABC store but:~~

~~1. The county operates an ABC store;~~

~~2. The county has already held a mixed beverage election; and~~

~~3. The vote in the last county election was against the sale of mixed beverages.~~"

SECTION 9. G.S. 18B-700 is amended by adding a new subsection to read:

"(a1) Mission. – The mission of local ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores."

SECTION 10. G.S. 18B-700(g) reads as rewritten:

"(g) ~~Salary.~~Compensation of Board Members. – A local board member ~~may be compensated as determined by the appointing authority.~~shall receive compensation in an amount not to exceed one hundred fifty dollars ($150.00) per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. No local board member shall receive any nonmonetary compensation or benefits unless specifically authorized by this section."

SECTION 11. G.S. 18B-700 is amended by adding a new subsection to read:

"(g1) Compensation of General Managers of Local Boards. – The salary authorized for the general manager of a local board shall not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission. Any change in compensation approved by the appointing authority shall be reported to the Commission in writing within 30 days of the effective date of the change. The general manager of a local board may receive any other benefits to which all employees of the local board are entitled. The salary authorized for other employees of a local board may not exceed that of the general manager."

SECTION 12. G.S. 18B-700 is amended by adding a new subsection to read:

"(g2) Travel Allowance and Per Diem Rates. – Approved travel on official business by the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless the local board adopts a travel policy that conforms to the travel policy of the appointing authority and such policy is approved by the appointing authority. The local board shall annually provide the appointing authority's written confirmation of such approval to the Commission and a copy of the travel policy authorized by the appointing authority. Any excess expenses not covered by the local board's travel policy shall only be paid with the written authorization of the appointing authority's finance officer. A copy of the written authorization

for excess expenses shall be submitted to the Commission by the local board within 30 days of approval."

SECTION 13. G.S. 18B-700(i) reads as rewritten:

"(i) Bond. – Each local board member and the employees designated as the general manager or finance officer of the local board shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~fifty thousand dollars ($50,000) secured by a corporate surety, for the faithful performance of his duties. A public employees' blanket position bond in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may ~~exempt from this bond requirement any board member who does not handle board funds, and it may also~~ increase the amount of the bond required for any member or employee who ~~does handle~~handles board funds."

SECTION 14. G.S. 18B-700 is amended by adding a new subsection to read:

"(k) Nepotism. – Members of an immediate family shall not be employed within the local board if such employment will result in one member of the immediate family supervising another member of the immediate family, or if one member of the immediate family will occupy a position which has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This subsection applies to local board members and employees.

For the purpose of this subsection, the term immediate family includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter. Also included are the step-, half-, and in-law relationships. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations."

SECTION 15. G.S. 18B-700 is amended by adding a new subsection to read:

"(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 16. G.S. 18B-701 reads as rewritten:

"**§ 18B-701. Powers and duties of local ABC boards.**

(a) Powers. – A local board shall have authority to:

(1) Buy, sell, transport, and possess alcoholic beverages as necessary for the operation of its ABC stores;
(2) Adopt rules for its ABC system, subject to the approval of the Commission;
(3) Hire and fire employees for the ABC system;
(4) Designate one employee as manager of the ABC system and determine his responsibilities;
(5) Require bonds of employees as provided in the rules of the Commission;
(6) Operate ABC stores as provided in Article 8;
(7) Issue purchase-transportation permits as provided in Article 4;
(8) Employ local ABC officers or make other provision for enforcement of ABC laws as provided in Article 5;
(9) Borrow money as provided in G.S. 18B-702;
(10) Buy and lease real and personal property, and receive property bequeathed or given, as necessary for the operation of the ABC system;
(11) Invest surplus funds as provided in G.S. 18B-702;
(12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and
(13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all rules adopted by the Commission pursuant to this Chapter and meet all standards for performance and training

established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission rules shall be cause for removal."

SECTION 17. G.S. 18B-702 reads as rewritten:

"**§ 18B-702. Financial operations of local boards.**

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Budget Officer. – The general manager of the local board shall be the budget officer for the local board. In the absence of a general manager, a local board may impose the duties of budget officer on the chairman or any member of the local board or any other employee of the board.

(c) Annual Balanced Budget. – Each local board shall operate under an annual balanced budget administered in accordance with this section. A budget is balanced when the sum of estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any other provision of law, no local board may expend any monies, regardless of their source, except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

(d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer, the budget officer shall prepare a budget for consideration by the local board in such form and detail as may have been prescribed by the budget officer or the local board. The budget, together with a budget message, shall be submitted to the local board, the appointing authority, and the Commission not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the goals fixed by the budget for the budget year, should explain important features of the activities anticipated in the budget, should set forth the reasons for stated changes from the previous year in appropriation levels, and should explain any major changes in fiscal policy.

(e) Filing and Publication of the Budget. – On the same day the budget officer submits the budget to the local board, the budget officer shall make a copy for public inspection, and it shall remain available for public inspection until the budget is adopted. The budget officer shall make a copy of the budget available to all news media in the county. The budget officer shall also publish a statement that the budget has been submitted to the local board and is available for public inspection in the office of the general manager of the local board. The statement shall also give notice of the time and place of the budget hearing required by subsection (f) of this section.

(f) Budget Hearings. – Before adopting the budget, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.

(g) Adoption of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

(1) The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.

(2) The full amount of any deficit in each fund shall be appropriated.

(3) Working capital funds set aside pursuant to G.S. 18B-805 shall be established by rule of the Commission. "Working capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4), and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.

(4) Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.

(5) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.

(6) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

The budget shall be entered in the minutes of the local board and within five days after adoption, and copies thereof shall be filed with the finance officer, the budget officer, the appointing authority, and the Commission.

(h) Amendments to the Budget. – Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section. The local board by appropriate resolution may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe. Any such transfers shall be reported to the local board at its next regular meeting and shall be entered in the minutes. Amendments to the adopted budget shall also be provided to the appointing authority and the Commission.

(i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the local board shall make interim appropriations for the purpose of paying salaries, debt service payments, and the usual ordinary expenses of the local board for the interval between the beginning of the budget year and the adoption of the budget. Interim appropriations so made shall be charged to the proper appropriations in the adopted budget.

(j) Finance Officer. – The local board shall designate (i) a part-time or full-time employee of the board other than the general manager or (ii) the finance officer of the appointing authority with consent of the appointing authority to be the finance officer for the local board. The Commission, for good cause shown, may allow the general manager of a board to also be the finance officer. Good cause includes, but is not limited to, the fact that the board operates no more than two stores, and any approval for the general manager to also be the finance officer shall apply until the board operates more than two stores; in any event, the approval shall be effective for 36 months.

(k) Duties and Powers of the Finance Officer. – The finance officer for a local board shall:

(1) Keep the accounts of the local board in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.

(2) Disburse all funds of the local board in strict compliance with this Chapter, the budget, and preaudit obligations, and disbursements as required by this section.

(3) As often as may be requested by the local board or the general manager, prepare and file with the board a statement of the financial condition of the local board.

(4) Receive and deposit all monies accruing to the local board, or supervise the receipt and deposit of money by other duly authorized employees.

(5) Maintain all records concerning the debt and other obligations of the local board, determine the amount of money that will be required for debt service or the payment of other obligations during each fiscal year, and maintain all funds.

(6) Supervise the investment of idle funds of the local board pursuant to subsection (t) of this section.

The finance officer shall perform such other duties as may be assigned by law, by the general manager, budget officer, or local board, or by rules and regulations of the Commission.

(l) Accounting System. – Each local board shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget originally adopted and subsequently amended.

(m) Incurring Obligations. – No obligation may be incurred in a program, function, or activity accounted for in a fund included in the budget unless the budget includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. No obligation may be incurred for a capital project unless the budget authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or agreement requiring the payment of money or by a purchase order for supplies and materials, the contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the local board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by G.S. 18B-702.

_____

(Signature of finance officer)."

An obligation incurred in violation of this subsection is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this subsection.

(n) Disbursements. – When a bill, invoice, or other claim against a local board is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget or a capital project or a grant project authorized by the budget, the finance officer may approve the claim only if:

(1) The finance officer determines the amount to be payable; and

(2) The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an

unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts Signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary, or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (o) of this section). The certificate shall take substantially the following form:

"This disbursement has been approved in the manner required by G.S. 18B-702.

_____

(Signature of finance officer)."

No certificate is required on payroll checks or drafts on an imprest account in an official depository if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars ($50.00) or less from a petty cash fund, provided the expenditure is accounted for by a receipt for the expended item.

~~(b)~~(r) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

~~(c)~~(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

~~(d)~~(t) Deposits and Investments. – A local board may deposit ~~moneys~~monies at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

~~(e)~~(u) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a budget officer, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds. The Commission may vary these rules and regulations according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. The Commission has the authority to inquire into and investigate the internal control procedures of a local board and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

(v) Penalties. – If a board member or employee of a local board incurs an obligation or pays out or causes to be paid out any funds in violation of this section, the member or employee and the sureties on the official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, the finance officer and the sureties on the official bond are liable for any sums illegally committed or disbursed thereby.

~~(f)~~(w) Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

(x) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 18. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-704. Removal of local board members and employees.**

(a) Improper Influence. – Neither the Commission nor its individual members shall attempt to coerce any appointing authority to appoint a particular person as a member of a local board or attempt to coerce a local board to employ any particular applicant.

(b) Purpose. – This section is intended to provide a uniform system of removal for appointing authorities and the Commission.

(c) Cause for Removal. – Disqualification of a local board member or employee under the law, a violation of the ABC laws, failure to complete training required by this Chapter or the Commission, or engaging in any conduct constituting moral turpitude or which brings the local board or the ABC system into disrepute is cause for the Commission to remove any member or employee of a local board. The employment or retention of any employee who is known to be disqualified under the law to hold a position with a local board is cause for the Commission to remove the board members involved.

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

(e) Removal Hearing. – Any local board member or employee removed from office or discharged by the Commission or the appointing authority may request a hearing before the Commission. Such a request operates to stay the action of the Commission or the appointing authority with regard to the matter until after the hearing, unless the Commission finds that the public interest requires immediate action. At the hearing, the employee or the employee's counsel may examine all evidence used against the employee and present evidence in the employee's own behalf. A removal hearing is not subject to the provisions of Chapter 150B of the General Statutes. All hearings shall be conducted informally and in such manner as to preserve the substantial rights of the parties.

(f) Hearing Procedure. – The Commission shall hold the hearing required by subsection (e) of this section within 15 days of the member's or employee's request for a hearing. The standard of review by the Commission is de novo. The Commission or appointing authority shall be represented by a Commission hearing officer. The Commission shall discharge the member or employee if two-thirds of the Commission's members vote for removal. The Commission shall make findings of fact. The Commission may adopt the findings of fact of the Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

(g) Commission Authority. – The Commission shall have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who has requested a hearing before the Commission. The Commission's decision in a removal hearing is final.

(h) Appeal. – A local board member or employee may appeal the Commission's final decision to the Court of Appeals. The standard of review for an appeal shall be abuse of discretion. The sole remedy for a local board member or employee shall be the reinstatement of the board member or employee to the local board with back pay. All awards for back pay shall be paid by the local board from which the board member or employee was removed.

(i) Removal Hearing Not a Substitute for Termination of Employee. – Nothing in this section replaces or is intended to replace a local board's policy regarding the termination of an employee for personnel reasons. The removal process under this section is reserved solely for the appointing authority or the Commission to remove a board member or employee for cause.

(j) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 19. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-705. Compliance with performance standards; remedies.**

(a) Local Board Compliance. – The Commission shall establish performance standards pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply with established performance standards by conducting regular or special audits, conducting performance evaluations, monitoring ABC law enforcement efforts, or taking other measures, which may include inspections by Commission auditors or alcohol law enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission and the local board, shall develop for and deliver a performance improvement plan to the local board within 60 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if

performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, 12 months' time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the established performance standards identified in the statement of findings cannot be met after a performance improvement plan has been implemented and adequate time has been given, but in no case less than 12 months, the Commission shall take appropriate action to avoid insolvency. This action may include closing the board pursuant to G.S. 18B-801(d), closing a store or multiple stores, or merging the local board with another local board in order to maintain solvency. The Commission may also seize the assets of the local board and liquidate any assets necessary to satisfy any debt in order to maintain the solvency of the local board. Prior to taking action pursuant to this subsection, the Commission shall issue a notice of intent to take such action to the appointing authority and the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 20. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-706. Ethics requirements for local boards.**

(a) Each local board shall adopt a policy containing a code of ethics, consistent with the provisions of G.S. 18B-201, to guide actions by the local board members and employees of the local board in the performance of their official duties. The policy shall address at least all of the following:

(1) The need to obey all applicable laws regarding official actions taken as a local board member or employee.

(2) The need to uphold the integrity and independence of the local board member or employee's position.

(3) The need to avoid impropriety in the exercise of official duties.

(4) The need to faithfully perform the duties of the position.

(5) The need to conduct the affairs of the board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(b) Each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment to the office and again within 12 months after each subsequent appointment to the office. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct for local ABC boards. The education may be provided by the Commission or other qualified source approved by the Commission. The local board shall maintain a record verifying receipt of the ethics education by each member of the local board. The local board may require appropriate ethics training and education for employees of the local ABC board.

(c) The Commission shall develop a model ethics policy that local ABC boards may adopt to be in compliance with this section."

SECTION 21. G.S. 18B-801(b) reads as rewritten:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

(1) Whether the health, safety, or general welfare of the community will be adversely ~~affected; and~~affected.

(2) Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.

(3) The proximity of the new location to existing ABC stores operated by the local board or any other board."

SECTION 21.1. G.S. 18B-801(c) reads as rewritten:

"(c) Closing of Stores. – Subject to the provisions of ~~subsection (a),~~ subsection (a) of this section, a local board may ~~close,~~ close a store, or the Commission may order a local board to ~~close,~~ close any store when the local board or the Commission determines that:

~~(1) The operation of the store is not sufficiently profitable to justify its continuation;~~

(2) The store is not operated in accordance with the ABC law; or

(3) The continued operation of that store will adversely affect the health, safety, or general welfare of the community in which the store operates."

SECTION 22. G.S. 18B-803 reads as rewritten:

"**§ 18B-803. Store management.**

(a) Manager. – A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. – Each store manager shall be bonded in an amount not less than ~~five thousand dollars ($5,000),~~ fifty thousand dollars ($50,000) secured by a corporate surety, for the honest performance of his duties. A public employees' blanket position bond, honesty form, in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of bond required for store managers under this subsection.

(c) Bonding of Other Employees. – A local board or the appointing authority may require any of its other employees who handle funds to obtain bonds. The amount and form of those bonds shall be determined by the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 23. G.S. 18B-1213 reads as rewritten:

"**§ 18B-1213. Obligations of purchaser.**

The purchaser of a ~~winery~~winery, and any successor to the rights of a winery, is obligated to all the terms and conditions of an agreement in effect on the date of the ~~purchase,~~purchase or other acquisition of the right to distribute a brand, except for good cause, which includes,

(1) Revocation of the wholesaler's permit or license to do business in this State,

(2) Bankruptcy or insolvency of the wholesaler,

(3) Assignment for the benefit of creditors or similar disposition of the assets of the wholesaler, or

(4) Failure by the wholesaler to comply substantially, without reasonable excuse or justification, with any reasonable and material requirement imposed upon ~~him~~ the wholesaler by the winery.

As used in this Article, "purchase" includes the sale of stock, sale of assets, merger, lease, transfer, or consolidation."

SECTION 24. G.S. 93B-9 reads as rewritten:

"**§ 93B-9. Age requirements.**

Any other provision notwithstanding, except certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission and the North Carolina Sheriff's Education and Training Standards Commission pursuant to Chapters 17C, 17D, 74E,

and 74G of the General Statutes, no occupational licensing board may require that an individual be more than 18 years of age as a requirement for receiving a license."

SECTION 25. Section 6 of this act becomes effective January 1, 2011. Sections 11 and 14 of this act become effective October 1, 2010, and apply to general managers and employees hired on or after that date. Section 15 of this act becomes effective October 1, 2011. Section 17 of this act becomes effective May 1, 2011, and is applicable for local board fiscal years beginning July 1, 2011. The ABC Commission shall offer training and education to local boards to assist local boards in complying with Section 17 of this act, and such training and education shall be offered at least once annually after the effective date of this act; however, the Commission shall have no obligation to provide such training and education after December 31, 2013. Section 23 of this act is effective when it becomes law and its provisions shall apply to all existing franchise agreements. A supplier's shipment of wine to a wholesaler in North Carolina following the effective date of Section 23 of this act shall constitute acceptance by the supplier of the terms of this act and shall be incorporated into the agreement between the supplier and wholesaler. Section 24 of this act is effective when it becomes law. The remainder of this act becomes effective October 1, 2010.

HOUSE BILL 1429

Second Edition Engrossed 5/14/09

Senate Rules and Operations of the Senate Committee Substitute Adopted 5/26/10

Short Title: Mortgage Guaranty Insurer Sunset Extended. (Public)

Sponsors:

Referred to:

April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE EFFECTIVE DATE FOR COMMISSIONER OF INSURANCE DISCRETION TO WAIVE THE MINIMUM POLICYHOLDERS POSITION REQUIREMENT UNDER CERTAIN CIRCUMSTANCES FOR MORTGAGE GUARANTY INSURERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-10-125(l) reads as rewritten:

"(l) Any waiver shall be (i) for a specified period of time not to exceed two years and (ii) subject to any terms and conditions that the Commissioner shall deem best suited to restoring the mortgage guaranty insurer's minimum policyholders position required by subsection (a) of this section. Notwithstanding any other provision in this section, the Commissioner shall not grant a waiver that would extend beyond ~~July 1, 2011.~~July 1, 2015."

SECTION 2. Section 2 of S.L. 2009-254 reads as rewritten:

"**SECTION 2.** This act becomes effective July 1, 2009, and expires ~~July 1, 2011.~~July 1, 2015."

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

HOUSE BILL 1429:
Mortgage Guaranty Insurer Sunset Extended

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	June 14, 2010
Introduced by:	Rep. Lewis	**Prepared by:**	Karen Cochrane-Brown
Analysis of:	Third Edition		Committee Counsel

SUMMARY: ***The Senate Committee Substitute for House Bill 1429 extends the time period during which the Commissioner of Insurance can exercise discretion to waive the minimum policyholders position requirement for mortgage guaranty insurers.***

The bill has been returned to the House for concurrence.

CURRENT LAW:

S.L. 2009-254 authorized the Commissioner of Insurance to waive the minimum policyholders position financial requirements for mortgage guaranty insurers if the Commissioner finds that the insurer's policyholders position is reasonable in relationship to the insurer's risk and is adequate to meet the insurer's financial needs, as determined by certain factors listed in the act.

The act provides that the waiver shall be for a specified time not to exceed two years and subject to any terms and conditions that the Commissioner deems best suited to restoring the insurer's minimum policyholders position. The Commissioner' authority to grant a waiver expires July 1, 2011.

BILL ANALYSIS:

House Bill 1429 extends the authority of the Commissioner of Insurance to grant waivers under S.L. 2009-254 until July 1, 2015.

EFFECTIVE DATE: This act is effective when it becomes law.

Tim Hovis, counsel to House Insurance, substantially contributed to this summary.

H1429-SMRO-173(e3) v1

VISITOR REGISTRATION SHEET

House Committee on State Government/State Personnel — 6-15-10

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jon Carr	NC Assoc. ABC Boards
Dean Plunkett	NCBWWA
Amy Hobbs	MWC
[signature]	MWC
Paul Parmele	ABB Dist.
Joe Lanier	Nelson Mullins
Benjamin Nathanson	Committee for a Better NC
Jordan Green	YES! weekly
Mike Herring	ABC Commission
Becki Gray	JLT
Agnes Keever	ABC Commission
Rose Williams	NCDOT

VISITOR REGISTRATION SHEET

House Committee on State Government/State Personnel — 6-15-10

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Phil Feagan	Gov's Office
Cady Thomas	NCAR
Barbara Carsle	BBC Inc
Daniel Blum	Troutman Sanders
[illegible]	[illegible]
Jack Cozort	NSS
Rev. Mark Creech	CAL
Judith Romero	NCRMA

VISITOR REGISTRATION SHEET

House Committee on State Government/State Personnel — 6-15-10

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kevin Rain	NCACC
Kay Emanuel	UNC School of Government
Thomas James	NCACC
Eddie Caldwell	NC Sheriffs' Assn.
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
MARK SENTER	NC ALCOHOL LAW ENFORCEMENT
John LEDFORD	NCALE & CCPS
Lisa Piercy	Ragsdale Liggett
William Riley	Mutual Distributing Company
Sharon Scudder	NCACC
Andrew Lynch	NCLM

VISITOR REGISTRATION SHEET

House State Govt / State Personnel — 6-15-10

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kelli Kukura	NCLM
Jim Harrell	Harrell & Assoc
[signature]	MWC
Keith Karlsson	Rep Heagarty — Intern
Jeanne Green	Genworth Financial
David Green	Genworth Financial
[signature]	MFAS
[signature]	NCBWWA
[signature]	Intern
Karl Knapp	NCLM
Ken Melton	K.M.A.

VISITOR REGISTRATION SHEET

House State Govt/State Personnel — 6-15-10

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jem Griffith	Intern - Hegarty
Brittany Farrell	NCFTC
Carl Dean	DSP

Minutes
House Committee on State Government/State Personnel
Tuesday, June 22, 2010

The House Committee on State Government/State Personnel met on Tuesday, June 22, 2010, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Gill, Jackson and Mobley and Representatives Burr, Justus, Randleman, Sager, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Toussaint Avent and Frank Prevo. Pages for the meeting included Carolina Whitehurst of Pitt County, sponsored by Rep. Edith Warren and Michaela Beatty of Catawba County, sponsored by Rep. Setzer.

The following bills were considered:

HB 2066, Special Retirement Allowances. By motion of Rep. Sutton, the PCS was adopted for discussion. Rep. Angela Bryant explained that the bill would amend the laws governing the Teachers' and State Employees' Retirement System to authorize the creation of special retirement allowances derived from the transfer of a member's eligible accumulated contributions to the Supplemental Retirement Income Plan. The PCS directs the Board of Trustees of the Retirement System to report to the Legislature on the number of persons who elect this benefit along with any recommendations for amendment or repeal of the provision. Fiscal Research staff member Stanley Moore explained some of the language in the bill and answered questions brought up by committee members. Michael Williamson, Director of the State Retirement System in the Treasurer's Office, and Chuck Stone of the State Employees' Association, spoke in support of the bill. Rep. Sutton then moved for a favorable report as to the Committee Substitute Bill, unfavorable as to the original bill, and recommended that the PCS be re-referred to the Committee on Pensions and Retirement. The motion carried.

HB 1801, Environmental Technical Corrections 2010. Representative Alice Underhill explained the bill, which would make clarifying, conforming and technical amendments to various laws related to the environment, energy and natural resources, as recommended by the Environmental Review Commission. Following discussion, Representative Sutton moved for a favorable report. The motion carried.

HB 1802, ENR Reports Consolidation 2010. Representative Underhill explained that this bill would amend or repeal various environmental and natural resources reporting requirements, as recommended by the Environmental Review Commission. Representative Wiley moved for a favorable report. The motion carried.

The meeting was adjourned at 2:20 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
HB 1801 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for

HB 1802 A BILL TO BE ENTITLED AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW 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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 2066 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CREATION OF SPECIAL RETIREMENT ALLOWANCES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

☒ With a favorable report as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on PENSIONS AND RETIREMENT.

(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 GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, June 22, 2010
2:00 PM
Room 424, LB

I. Agenda Items

HB 1801	Environmental Technical Corrections 2010 Representatives Harrison, Gibson, Tarleton and Underhill
HB 1802	ENR Reports Consolidation 2010 Representatives Harrison, Gibson, Tarleton and Underhill
HB 2066	Special Retirement Allowances Representative Bryant

II. Discussion

III. Adjourn

HOUSE BILL 1801*
Committee Substitute Favorable 6/1/10

Short Title: Environmental Technical Corrections 2010. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 114-4.2D reads as rewritten:

"**§ 114-4.2D. Employment of attorney for Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce.**

The Attorney General shall assign an attorney ~~on his staff~~ to work full time with the Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration~~ Commerce. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned ~~to him~~ by the Attorney General."

SECTION 2. The title of Article 19 of Chapter 120 of the General Statutes reads as rewritten:

"Article 19.

~~Commission on~~ Agriculture and Forestry Awareness Study Commission."

SECTION 3. G.S. 120-150 reads as rewritten:

"**§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

(1) Three appointed by the ~~Governor;~~Governor.
(2) Three appointed by the President Pro Tempore of the ~~Senate;~~Senate.
(3) Three appointed by the Speaker of the ~~House;~~House.
(4) The ~~chairman~~chairs of the House Agriculture ~~Committee;~~Committee.
(5) The ~~chairman~~chairs of the Senate ~~Agriculture Committee;~~Committee on Agriculture, Environment, and Natural Resources.
(6) The Commissioner of Agriculture or the Commissioner's ~~designee;~~designee.
(7) A member of the Board of Agriculture designated by the ~~chairman~~chair of the Board of ~~Agriculture;~~Agriculture.
(8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's ~~designee;~~designee.
(9) The ~~Master~~ President of the North Carolina State Grange or the ~~Master's~~ President's ~~designee;~~designee.

(10) The Secretary of Environment and Natural Resources or the Secretary's ~~designee; and~~designee.

(11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. ~~The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively.~~"

SECTION 4. G.S. 130A-309.10(l) reads as rewritten:

"(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at least 90 days or until they are removed for recycling. If oyster shells that are stored at a landfill are not removed for recycling within 90 days of delivery to the landfill, then, notwithstanding subdivision ~~(12)~~(13) of subsection (f) of this section, the oyster shells may be disposed of in the landfill."

SECTION 5. G.S. 130A-309.12(b) reads as rewritten:

"(b) The Solid Waste Management Trust Fund shall consist of the following:

(1) Funds appropriated by the General Assembly.

(2) Contributions and grants from public or private sources.

(3) ~~Five percent (5%)~~Eight percent (8%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.

(4) Eight percent (8%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes.

(5) Twelve and one-half percent (12.5%) of the proceeds of the solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes."

SECTION 6. G.S. 130A-310.11(b) reads as rewritten:

"(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-295.9(1) and ~~G.S. 130A-310.5(c).~~G.S. 130A-310.6(c)."

SECTION 7. G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water State Revolving Fund or the Drinking Water Reserve ~~Fund~~ or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

...."

SECTION 8. G.S. 153B-2 reads as rewritten:

"**§ 153B-2. Definitions.**

The following definitions apply in this ~~Article:~~Chapter:

(1) Commission. – The Mountain Resources Commission created by this Chapter.

(2) Council. – The Mountain Area Resources Technical Advisory Council.

(3) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.

(4) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

(5) Secretary. – The Secretary of ~~the Department of~~ Environment and Natural Resources."

SECTION 9. G.S. 153B-3(d) reads as rewritten:

"(d) Membership. – The Commission shall consist of 17 members as follows:

...

(d1) Officers; Terms. – The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009."

SECTION 10. G.S. 153B-4 reads as rewritten:

"**§ 153B-4. Mountain Area Resources Technical Advisory Council.**

...

(d) Members; Multiple Offices. – Membership on the ~~Mountain Area Resources Technical Advisory~~ Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) ~~Chairman~~ Chair and Vice ~~Chairman~~Chair. – A ~~chairman~~chair and vice ~~chairman~~ chair shall be elected annually by the Council.

(f) Compensation. – The members of the ~~Advisory~~ Council who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

SECTION 11. Section 3(d) of S.L. 2005-190 reads as rewritten:

"**SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act.** – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under ~~Chapter 159G of the General Statutes~~G.S. 159G-20 on the same basis as any other applicant if the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works."

SECTION 12. This act is effective when it becomes law.

HOUSE BILL 1801:
Environmental Technical Corrections 2010

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	June 22, 2010
Introduced by:	Reps. Harrison, Gibson, Tarleton, Underhill	**Prepared by:**	Shirley Iorio, Ph D*
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***House Bill 1801 would make clarifying, conforming, and technical amendments to various laws related to the environment, energy, and natural resources, as recommended by the Environmental Review Commission.***

[As introduced, this bill was identical to S1162, as introduced by Sen. Hartsell, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS: House Bill 1801 would make the following technical amendments:

Section 1 would make conforming amendments to G.S. 114-4.2D to change the Department of Administration to the Department of Commerce and use gender neutral language. In 2009, the General Assembly transferred the Energy Policy Council and the Energy Efficiency Program from the Department of Administration to the Department of Commerce.

Section 2 would amend the catch line of Article 19 of Chapter 120 of the General Statutes to read "Agriculture and Forestry Awareness Study Commission."

Section 3 would amend G.S. 120-150 to use gender-neutral language and correctly name the listed committees.

Section 4 would amend an incorrect cross reference in G.S. 130A-309.10(l).

Section 5 would amend statutes regarding the Solid Waste Management Trust Fund to conform with changes made in S.L. 2007-153 and S.L. 2007-550.

Section 6 would amend an incorrect statutory reference in G.S. 130A-310.11(b).

Section 7 would amend G.S. 143-355.4(b) to correctly name the listed funds.

Section 8 would make technical and conforming changes in G.S. 153B-2.

Section 9 would make technical and conforming changes in G.S. 153B-3(d).

Section 10 would amend G.S. 153B-4 to include gender-neutral language and make conforming changes.

Section 11 would correct a cross reference in Section 3(d) of S.L. 2005-190.

EFFECTIVE DATE: This act would become effective when it becomes law.

**Mariah Matheson, Research Assistant, substantially contributed to this summary.*

H1801-SMSF-122(e2) v3

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 2

HOUSE BILL 1802*
Committee Substitute Favorable 6/1/10

Short Title: ENR Reports Consolidation 2010. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.06(c)(13) is repealed.

SECTION 2. G.S. 130A-310.57 reads as rewritten:

"**§ 130A-310.57. (Effective until December 31, 2017) Reports.**

The Department shall submit an annual report on the mercury switch removal program under this Part to the Environmental Review ~~Commission~~ Commission, ~~and~~ the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic ~~Resources~~Resources, and the Fiscal Research Division of the General Assembly on or before 1, October of each year. The report shall include, at a minimum, all of the following:

(1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.

(1a) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.

(2) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program..

(3) The number of mercury switches collected and a description of how the mercury switches were managed.

(4) A statement that details the costs required to implement the mercury switch removal program including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 3. G.S. 143-214.13 reads as rewritten:

"**§ 143-214.13. Ecosystem Enhancement Program: reporting requirement.**

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review Commission and to the Joint Legislative Commission on Governmental Operations regarding its progress in implementing the Ecosystem Enhancement Program and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the

State's Ecosystem Enhancement Program and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the Ecosystem Enhancement Program. The inventory shall also list all conservation easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

SECTION 4. G.S. 143B-336.1 reads as rewritten:

"**§ 143B-336.1. Special Zoo Fund.**

A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, for the replacement of tram equipment as required to maintain adequate service to the public, and for marketing the Zoological Park. The Special Zoo Fund may also be used to match private funds that are raised for these purposes. Funds may be expended for these purposes by the Department of Environment and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment and Natural Resources shall provide ~~an annual~~ a report on or before October 1 of each year to the Office of State Budget and ~~Management~~ Management, ~~and to~~ the Fiscal Research Division of the ~~Legislative Services Office~~ General Assembly, and to the Joint Legislative Commission on Governmental Operations on the use of fees collected pursuant to this section."

SECTION 5. G.S. 143B-344.21 reads as rewritten:

"**§ 143B-344.21. Reports to General Assembly.**

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth to the 1995 General Assembly, and to each succeeding General Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations~~a report outlining the needs of the North Carolina State Museum of Natural Sciences and their recommendation for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth~~ on or before October 1 of each year."

SECTION 6. S.L. 2002-4, Section 11, as amended by S.L. 2006-79, reads as rewritten:

"**Section 11.** The Environmental Management Commission shall study the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S. 143-215.107D, as enacted by Section 1 of this act. The Environmental Management Commission shall consider the availability of emissions reduction technologies, increased cost to consumers of electric power, reliability of electric power supply, actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) taken by states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage, and the effects that these reductions would have on public health, the environment, and natural resources, including visibility. In its conduct of this study, the Environmental Management Commission may consult with the Utilities Commission and the Public Staff. The Environmental Management Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission ~~annually~~ biennially beginning ~~1 September 2007.~~1 September 2011."

SECTION 7. This act is effective when it becomes law.

HOUSE BILL 1802:
ENR Reports Consolidation 2010

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	June 22, 2010
Introduced by:	Reps. Harrison, Gibson, Tarleton, Underhill	**Prepared by:**	Shirley Iorio, Ph D*
Analysis of:	Second Edition		Legislative Analyst

SUMMARY: ***House Bill 1802 would amend or repeal various environmental and natural resources reporting requirements, as recommended by the Environmental Review Commission.***

[As introduced, this bill was identical to S1163, as introduced by Sen. Hartsell, which is currently in Senate Agriculture/Environment/Natural Resources.]

BILL ANALYSIS:

Section 1 would repeal a reporting requirement made obsolete by Section 15 of S.L. 2009-484, which repealed the requirement for each State department, institution, agency, community college, and local school administrative unit to report to the Division of Pollution Prevention and Environmental Assistance of the Department of Environment and Natural Resources (DENR) on the amounts and types of materials and supplies with recycled content that were purchased. Repealing G.S. 130A-309.06(c)(13) removes the requirement for the Division of Waste Management to include information from this report in the annual solid waste management report.

Section 2 would require DENR to submit the mercury switch removal program annual report to the Fiscal Research Division of the General Assembly, in addition to the Environmental Review Commission (ERC) and the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources.

Section 3 would require DENR to submit the Ecosystem Enhancement Program annual report to the Joint Legislative Commission on Governmental Operations (Gov Ops), in addition to the ERC and the Fiscal Research Division.

Section 4 would specify the reporting date of the Special Zoo Fund annual report as October 1 and would require DENR to provide this report to Gov Ops, in addition to the Office of State Budget Management and the Fiscal Research Division.

Section 5 would specify a reporting date of October 1 for the Advisory Commission for the North Carolina State Museum of Natural Sciences' annual report and would require the Commission to submit this report to the Fiscal Research Division and Gov Ops, in addition to the General Assembly.

Section 6 would change the reporting requirement for the Environmental Management Commission's (EMC) report on the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) beyond those required by G.S. 143-215.107D from annually to biennially, with the first report due on September 1, 2011.

EFFECTIVE DATE: This act would become effective when it becomes law.

**Mariah Matheson, Research Assistant, substantially contributed to this summary.*

H1802-SMSF-123(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H D

HOUSE BILL 2066
PROPOSED COMMITTEE SUBSTITUTE H2066-CSLB-94 [v.1]

Short Title: Special Retirement Allowances. (Public)

Sponsors:

Referred to:

May 27, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CREATION OF SPECIAL RETIREMENT ALLOWANCES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 2. G.S. 135-5 is amended by adding a new subsection to read:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a onetime election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's– transferred balance. Notwithstanding anything to the contrary, a member may not transfer such amounts that will

cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member who transfers the member's eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The Board of Trustees shall determine a period certain in which the special retirement allowance shall be payable. If the retired member and the person nominated to receive a monthly retirement allowance upon the member's death, if any, die within the period of time specified by the Board of Trustees, the special retirement allowance shall continue to be paid for the remainder of the specified period to the legal representative of the member or to such person as the member shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the onetime election provided herein."

SECTION 3. G.S. 135-5(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~ In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the

retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System over the total of the Special Retirement Allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" excludes any amount transferred under subsection (m2) of this section.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 135-4, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 4. G.S. 128-27(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by ~~G.S. 128-29(o).~~ G.S. 128-28(o). Provided, however, a member who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 5. G.S. 128-27 is amended by adding a new subsection to read:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a onetime election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance. Notwithstanding anything to the contrary, a member may not transfer such amounts that will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 128-28(o). Provided, however, a member who transfers the member's eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North

Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The Board of Trustees shall determine a period certain in which the special retirement allowance shall be payable. If the retired member and the person nominated to receive a monthly retirement allowance upon the member's death, if any, die within the period of time specified by the Board of Trustees, the special retirement allowance shall continue to be paid for the remainder of the specified period to the legal representative of the member or to such person as the member shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the onetime election provided herein"

SECTION 6. G.S. 128-27(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System over the total of the Special Retirement Allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" excludes any amount transferred under subsection (m2) of this section.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement

Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above, and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 7. This act becomes effective January 1, 2011.

HOUSE BILL 2066

Short Title:	Special Retirement Allowances.	(Public)
Sponsors:	Representatives Bryant; and Hughes.	
Referred to:	State Government/State Personnel, if favorable, Pensions and Retirement.	

May 27, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CREATION OF SPECIAL RETIREMENT ALLOWANCES FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 2. G.S. 135-5 is amended by adding a new subsection to read:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a onetime election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's eligible accumulated account balance at the date of the transfer of the assets to this System. The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. Postretirement allowances will be provided on the special retirement allowance based on the

election of the member at the time of the transfer. The member may elect an allowance with no postretirement increases or an allowance with annual postretirement increases equal to the increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement allowance. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers the member's eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System, shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

For the special retirement allowance only, the Board of Trustees may permit a modification to the optional allowances in subsection (g) of this section that if both the member and the person nominated to receive a benefit upon the member's death die within a period of time specified by the Board of Trustees, the allowance will continue to be paid for the remainder of the specified period to the legal representative of the member or to such person as the member shall nominate by written designation duly acknowledged and filed with the Board of Trustees."

SECTION 3. G.S. 135-5(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~ In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) or (m2) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System over the total of the Special Retirement Allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" excludes any amount transferred under subsection (m1) or (m2) of this section.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to

the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 135-4, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 4. G.S.128-27(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability

retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 128-29(o). Provided, however, a member who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

SECTION 5. G.S. 128-27 is amended by adding a new subsection to read:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a onetime election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's eligible accumulated account balance at the date of the transfer of the assets to this System. The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. Postretirement allowances will be provided on the special retirement allowance based on the election of the member at the time of the transfer. The member may elect an allowance with no postretirement increases or an allowance with annual postretirement increases equal to the increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement allowance. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers the member's eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System, shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

For the special retirement allowance only, the Board of Trustees may permit a modification to the optional allowances in subsection (g) of this section that if both the member and the person nominated to receive a benefit upon the member's death die within a period of time specified by the Board of Trustees, the allowance will continue to be paid for the remainder of the specified period to the legal representative of the member or to such person as the member shall nominate by written designation duly acknowledged and filed with the Board of Trustees."

SECTION 6. G.S. 128-27(g1) reads as rewritten:

"(g1) In the event of the death of a retired member while in receipt of a retirement allowance under the provisions of this Article, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal to the excess, if any, of the accumulated contributions of the retiree at the date of retirement over the total of the retirement allowances paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.~~In the event that a retiree is receiving a Special Retirement Allowance under subsection (m1) or (m2) of this section, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System over the total of the Special Retirement Allowances paid prior to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions" excludes any amount transferred under subsection (m1) or (m2) of this section.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the retirement allowances paid to the retiree and the designated survivor combined equals the amount of the accumulated contributions of the retiree at the date of retirement, the excess, if any, of such accumulated contributions over the total of the retirement allowances paid to the retiree and the survivor combined shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event that a retirement allowance becomes payable to the principal beneficiary designated to receive a return of accumulated contributions pursuant to subsection (m) of this section and that beneficiary dies before the total of the retirement allowances paid equals the amount of the accumulated contributions of the member at the date of the member's death, the excess of those accumulated contributions over the total of the retirement allowances paid to the beneficiary shall be paid in a lump sum to the person or persons the member has designated as the contingent beneficiary for return of accumulated contributions, if the person or persons are living at the time the payment falls due, otherwise to the principal beneficiary's legal representative. For purposes of this paragraph, the term "accumulated contributions" includes amounts of employee voluntary contributions that were transferred from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible law enforcement officers.

In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be paid to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed

with the Board of Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if any, of the cost of the creditable service purchased less the administrative fee, if any, over the total of the increase in the retirement allowance attributable to the additional creditable service, paid from the month following the month in which payment was received to the death of the retiree.

In the event that a retirement allowance becomes payable to the designated survivor of a retired member under the provisions above, and such retirement allowance to the survivor shall terminate upon the death of the survivor before the total of the increase in the retirement allowance attributable to the additional creditable service paid to the retiree and the designated survivor combined equals the cost of the creditable service purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall have nominated by electronic submission in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time such payment falls due, otherwise to the retiree's legal representative.

In the event that a retiree dies without having designated a beneficiary to receive a benefit under the provisions of this subsection, any such benefit that becomes payable shall be paid to the member's estate."

SECTION 7. This act becomes effective July 1, 2010.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

Legislative Actuarial Note

RETIREMENT

BILL NUMBER: House Bill 2066 (First Edition)

SHORT TITLE: Special Retirement Allowances.

SPONSOR(S): Representative Bryant

FUNDS AFFECTED: Any State or local employee who has funds in the Supplemental Retirement Income Plan and the Public Employee Deferred Compensation Plan.

SYSTEM OR PROGRAM AFFECTED: Teachers' & State Employees' Retirement System, Local Governmental Employees' Retirement System, the Supplemental Retirement Income Plan and the Public Employee Deferred Compensation Plan.

EFFECTIVE DATE: July 1, 2010

BILL SUMMARY:

Sections 1 and 4. Presently all State and local law enforcement officers are eligible to transfer the entire balance of the Supplemental Retirement Income Plan {401(k) Plan}to either the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System and receive a life annuity based on their age. This bill allows for the transfer of any portion of the fund balance rather than the entire fund balance. Any State or local officer with five or more years of service as of June 30, 2010 will continue to have this benefit.

Sections 2,3, 5 and 6: Creates a Special Retirement Allowance. This will allow all members of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System to transfer any portion of their fund balances in either the Supplemental Retirement Income Plan or the Public Employee Deferred Compensation Plan on a onetime election at any time at or after retirement and receive a special retirement allowance which will be based on the amount of funds and age of the member.

The Board of Trustees may establish a minimum amount that must be transferred. The Board shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and other tables as may be necessary based upon actual experience. A single set of mortality and other tables will be used for all members based on the age of the member and the election of post-retirement allowance. The Board shall modify the mortality and such other tables every five years based upon the five-year experience study as required. A member shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina.

ESTIMATED IMPACT ON STATE: Both, Buck Consultants, the Retirement Systems' actuary, and Hartman & Associates, the General Assembly's actuary, agree that the changes would not be expected to produce a significant financial impact to the retirement systems.

ASSUMPTIONS AND METHODOLOGY:

Teachers' & State Employees' Retirement System

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2008 actuarial valuation of the fund. The data included 325,618 active members with an annual payroll of $13.3 billion, 151,353 retired members in receipt of annual pensions totaling $3.1 billion and actuarial value of assets equal to $55.1 billion. Significant actuarial assumptions used include (a) an investment return rate of 7.25%, (b) average salary increase rate of 6.25%, (c) the 1994 Group Annuity Mortality Tables (tables are not adjusted for male teachers, set forward one year for female teachers, set forward two years for general employees and law enforcement officers and set forward two years for the beneficiaries of deceased member), and (d) rates of separation from active service based on System experience. The actuarial cost method used was the entry age normal cost method and a frozen liquidation period of nine years. Detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from Stanley Moore.

Local Governmental Employees' Retirement System

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2008 actuarial valuation of the fund. The data included 123,524 active members with an annual payroll of $4.97 billion, 44,311 retired members in receipt of annual pensions totaling $744.7 million and actuarial value of assets equal to $17.1 billion. Significant actuarial assumptions used include (a) an investment return rate of 7.25%, (b) salary increase rate of 6.25%, (c) the 1994 Group Annuity Mortality Tables, (tables are forward three years for males, set forward two years for females and set forward two years for the beneficiaries of deceased members and special mortality tables are used for period after disability retirement), and (d) rates of separation from active service based on System experience. The actuarial cost method used was the projected benefit method with aggregate level normal cost and frozen accrued liability. Gains and losses are reflected in the normal rate. Detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from Stanley Moore.

SOURCES OF DATA: Buck Consultants
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.

SOURCES OF DATA:

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Stanley Moore

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

DATE: June 16, 2010



Signed Copy Located in the NCGA Principal Clerk's Offices

buckconsultants

A Xerox Company

June 8, 2010

Mr. David Vanderweide
Policy Director
State of North Carolina
Department of State Treasurer
Retirement Systems Division
325 North Salisbury Street
Raleigh, NC 27603-1385

Re: House Bill 2066

Dear Mr. Vanderweide:

We have received your request of May 27 regarding House Bill 2066, which affects the provisions of the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS).

The proposed legislation amends G.S. 135-5(m1), G.S. 135-5(g1), G.S. 128-27(m1) and G.S. 128-27(g1); adds G.S. 135-5(m2) and G.S. 128-27(m2); and appears to allow all members to transfer balances from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employer Deferred Compensation Plan to the retirement systems and convert them to life annuities. The annuity factors would be adopted by the Board of Trustees based on U.S. Treasury Bond yields and the mortality experience of TSERS and LGERS. This legislation would become effective July 1, 2010.

The conversion of the transferred balances to monthly annuities will be based on actuarial equivalent factors using the mortality assumptions used for the valuations of TSERS and LGERS and interest rates that will be based on U.S. Treasury Bond yields. Based on long-term expectations of yields on U.S. Treasury Bonds and on long-term expectations of returns on the assets for TSERS and LGERS, it is more likely than not that the return on the assets for TSERS and LGERS will be larger than yields on U.S Treasury Bonds, thus providing an excess return on the transferred balances. These excess returns should be sufficient to compensate TSERS and LGERS for the additional volatility of their investment strategies over investing wholly in U.S. Treasury Bonds. Therefore, the impact on TSERS and LGERS for this proposed legislation should be negligible.

14911 Quorum Drive, Suite 200 • Dallas, TX 75254-7534
972.628.6800 • 972.628.6801 (fax)

If you have any questions or need additional assistance, please let us know.

Very truly yours,

Richard A. Mackesey, FSA, EA, MAAA
Principal, Consulting Actuary

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HARTMAN & ASSOCIATES, LLC

ACTUARIAL CONSULTING

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Phone: (336) 731-4038
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668 Link Road
Lexington, NC 27295

June 8, 2010

Mr. Stanley Moore
Fiscal Research Division
North Carolina General Assembly
300 N. Salisbury Street
Raleigh, NC 27603-5925

Re: House Bill 2066: An Act to Authorize Creation of Special Retirement Allowances For Retirees of the TSERS and LGERS

Dear Mr. Moore:

This bill amends G.S. 135-5 and G.S. 128-27 to modify the provisions for special retirement allowances from funds transferred to the Teachers' and State Employees' Retirement System (TSERS) or the Local Governmental Employees' Retirement System (LGERS). This act is effective July 1, 2010.

Currently, a law enforcement officer in either system may transfer his accumulated funds from the Supplemental Retirement Income Plan of North Carolina to the TSERS or LGERS upon retirement. The member then receives a special retirement allowance, in addition to the basic retirement allowance, based on the amount of funds transferred, annuity factors determined by the Board of Trustees, and an assumed annual increase in the allowance of 4%. This bill continues this option for members vested as of June 30, 2010 and allows transfer of any portion of the funds instead of only a complete transfer.

This bill also provides a second option for special retirement allowances. This option would allow a member to make a onetime election at or following retirement to transfer any portion of accumulated funds from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to the TSERS or LGERS. The member would then receive a special retirement allowance, in addition to the basic retirement allowance, based on annuity factors using yields on U.S. Treasury Bonds and mortality rates based on actual experience. The member could elect to receive either an allowance with no postretirement increases or with annual increases equal to the increase in the U.S. Consumer Price Index. Postretirement increases on any other allowances would not apply to the special retirement allowance. The Board of Trustees would modify the mortality and other tables every five years.

In my analysis of this bill, I have assumed that the determination of factors for special retirement allowances in the TSERS and LGERS will be consistent with the actuarial assumptions used for plan funding. These include mortality rates, investment returns, and CPI rates. Based on this methodology, the changes from this bill are not expected to have a material financial impact in the TSERS of LGERS.

If you have any questions, let me know.

Sincerely,

Mark Hartman

Mark V. Hartman, FSA, MAAA, FCA, EA
Consulting Actuary

MVH/mt

HOUSE BILL 2066:
Special Retirement Allowances

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Pensions and Retirement	**Date:**	June 22, 2010
Introduced by:	Rep. Bryant	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	PCS to First Edition H2066-CSLB-93		

SUMMARY: ***House Bill 2066 would amend the laws governing the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System to authorize the creation of special retirement allowances derived from the transfer of a member's eligible accumulated contributions to the Supplemental Retirement Income Plan.***

The PCS directs the Board of Trustees of the Retirement System to report to the Legislature on the number of persons who elect this benefit along with any recommendations for amendment or repeal of the provision.

CURRENT LAW:

Under existing law, State and local law enforcement officers are allowed to transfer the entire balance of their accumulated contribution, excluding Roth after-tax contributions, from the Supplemental Retirement Income Plan (401(k) Plan) to the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System. The member is then eligible to receive a special retirement allowance, in addition to the member's basic service allowance, in the form of an annuity based on the transferred account balance and the member's age at the time of the transfer.

BILL ANALYSIS:

Sections 1 and 4 of House Bill 2066 would authorize law enforcement officers who are vested on June 30, 2010, to transfer a portion of their accumulated contributions rather than the entire balance.

The remaining sections of the bill authorize the creation of special retirement allowances for all members of both retirement systems. The members would be allowed to make a one-time transfer of any portion of a member's eligible accumulated contributions (excluding Roth after-tax contributions) from the Supplemental Retirement Income Plan or the Public Employees Deferred Compensation Plan to the appropriate retirement system. However, the Board of Trustees is authorized to establish a minimum amount that must be transferred. The member could make the election at or at any time following retirement. The member would then be eligible to receive a special retirement allowance similar to what is currently available to law enforcement officers. The special retirement allowance shall receive the same tax treatment as if paid by the Supplemental Retirement Income Plan.

The Board of Trustees is directed to report annually to the Joint Legislative Commission on Governmental Operations on the number of members who make this election, along with any recommendations for amendment or repeal. The General Assembly reserves the right to repeal or amend this provision prior to July 1, 2014, without affecting the rights of anyone who made the election while the provision was in effect.

EFFECTIVE DATE: This act becomes effective January 1, 2011.

VISITOR REGISTRATION SHEET

S. Le Govt / State Personnel 6-22-10

Name of Committee Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thomas C. Caves, Jr.	NC Dept. of Crime Control & Public Safety
Janie Hauser	DENR
Carl Dean	DSP
Robin Smith	DENR
Michael Williamson	DST
David Vandermeide	DST
Julie Hochstein	DST
Nick Tosco	NCLM
[illegible]	NCLM
[illegible]	HEW
Amy Simms	DENR
Patrick Buffkin	NCAEC

VISITOR REGISTRATION SHEET

State Govt / State Personnel — 6-22-10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Penny Tuffin	School of Gov.
Whitney Campbell	Jordan Price
Scott Garoner	Duke Energy
Adam Hawkins	" "
Susan Valaani	Nationwide
Ehrick Soterage	National
Brian Dempsey	MWC
David Starling	NC DST
Weedtrely Rose	Hunton + Williams
Carl Markenzen	Sierra Club
Walter Gunnells	NC Beverage

VISITOR REGISTRATION SHEET

State Govt/State Personnel — 6-22-10

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Hasan Khan	NCCN
Jem Griffin	Intern - Heagarty
[signature]	NCACC
Anthony M Allison	NCACC
Drew Ball	Sierra Club

VISITOR REGISTRATION SHEET

State Govt / State Personnel — 6-22-10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Andis Watkins	SEANC
Suzanne Bayliss	SEANC
Rick Zechini	NC Assoc of Realtors
John Goodman	NC Chamber

Minutes
House Committee on State Government/State Personnel
Tuesday, June 29, 2010

The House Committee on State Government/State Personnel met on Tuesday, June 29, 2010, at 2:00 PM in Room 424, Legislative Office Building. In addition to Chairman Wilkins, the following members were present: Vice Chairs Gill and Mobley and Representatives Burr, Heagarty, Justus, Randleman, Sager, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; Committee Assistant Nancy Brantley; and Sergeant-at-Arms staff Young Boe, Toussaint Avent and David Shearon. Pages for the meeting were Jake Anthony and Brad Yovanovich, both of Wake County and sponsored by Representative Goforth; Mary Edminson of Davidson County, sponsored by Representative Dockham; and Dee Evans of Person County, sponsored by Representative Wilkins.

The following bills were considered:

HB 1892, Prgm Eval Study Agency Reversal ALJ Decision. Representative Insko, sponsor, explained that the bill authorizes the Joint Legislative Program Evaluation Oversight Committee to study the reversal of administrative law judge decisions in contested cases. Representative Randleman moved for a favorable report and recommendation that the bill be re-referred to the Committee on Rules, Calendar, and Operations of the House. The motion carried.

SB 1386, Government Employees Port Benefits. Senator East, sponsor, explained the bill, which authorizes the Legislative Research Commission to study issues related to allowing former local government employees to transfer accumulated sick and annual leave balances from a local government employer to a State government employer and to study leave balance transfer issues. Representative Burr moved for a favorable report and recommendation that the bill be re-referred to the Committee on Pensions and Retirement. The motion carried.

The meeting adjourned at 2:10 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☐ Committee Substitute for

HB 1892 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE TO DIRECT THE PROGRAM EVALUATION DIVISION TO STUDY AGENCY REVERSAL OF ADMINISTRATIVE LAW JUDGE DECISIONS IN CHAPTER 150B CONTESTED CASES, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
SB 1386 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY ALLOWING EMPLOYEES MOVING BETWEEN STATE, CITY, AND COUNTY GOVERNMENT TO PORT THEIR SICK AND ANNUAL LEAVE.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on PENSIONS AND RETIREMENT.

(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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA

Tuesday, June 29, 2010
2:00 PM
Room 424, LB

I. Agenda Items

HB 1892	Prgm Eval Study Agency Reversal ALJ Decision Representatives Insko, Braxton and Justus
HB 2016	Open Enrollment/Contributory Death Benefit - pulled from agenda Representative Insko
SB 1386	Government Employees Port Benefits Senator East

II. Discussion

III. Adjourn

HOUSE BILL 1892*

Short Title:	Prgm Eval Study Agency Reversal ALJ Decision.	(Public)
Sponsors:	Representatives Insko, Braxton, Justus (Primary Sponsors); Barnhart, Bell, Harrison, and Lucas.	
Referred to:	State Government/State Personnel, if favorable, Rules, Calendar, and Operations of the House.	

May 20, 2010

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE TO DIRECT THE PROGRAM EVALUATION DIVISION TO STUDY AGENCY REVERSAL OF ADMINISTRATIVE LAW JUDGE DECISIONS IN CHAPTER 150B CONTESTED CASES, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Joint Legislative Program Evaluation Oversight Committee shall include in the 2010 Work Plan for the Program Evaluation Division of the General Assembly a study of Chapter 150B contested cases. The Division shall study the number of decisions rendered by administrative law judges that are overturned as a final agency decision. For these cases the Division shall evaluate the nature of the case, the basis of the reversal, the number of cases appealed to superior court and the results of those appeals.

SECTION 1.(b) The Program Evaluation Division shall submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Joint Legislative Administrative Procedure Oversight Committee at a date to be determined by the Joint Legislative Program Evaluation Oversight Committee.

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

HOUSE BILL 1892:
Prgm Eval Study Agency Reversal ALJ Decision

2009-2010 General Assembly

Committee:	State Government/State Personnel, if favorable, Rules, Calendar, and Operations of the House	**Date:**	June 28, 2010
Introduced by:	Reps. Insko, Braxton, Justus	**Prepared by:**	Karen Cochrane-Brown Committee Counsel
Analysis of:	First Edition		

SUMMARY: ***House Bill 1892 authorizes the Joint Legislative Program Evaluation Oversight Committee to study the reversal of administrative law judge decisions in contested cases, as recommended by the Join Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services.***

[As introduced, this bill was identical to S1305, as introduced by Sen. Nesbitt, which is currently in Rules and Operations of the Senate.]

BILL ANALYSIS:

House Bill 1892 directs the Joint Legislative Program Evaluation Oversight Committee to include in its 2010 work plan a study of Chapter 150B contested cases. The study shall include review of the number of decisions rendered by administrative law judges that are overturned as final agency decisions, as well as an evaluation of the nature of the cases, the basis for reversal, the number of cases appealed to superior court, and the results of those appeals.

The Program Evaluation Division is directed to submit its findings and recommendations to the Joint Legislative Program Evaluation Oversight Committee, the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, and the Joint Legislative Administrative Procedure Oversight Committee. The timing of the report shall be determined by the Joint Legislative Program Evaluation Oversight Committee.

EFFECTIVE DATE: This act is effective when it becomes law.

H1892-SMRO-185(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 3

SENATE BILL 1386

State and Local Government Committee Substitute Adopted 6/15/10
Third Edition Engrossed 6/16/10

Short Title: Government Employees Port Benefits. (Public)

Sponsors:

Referred to:

May 26, 2010

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY ALLOWING EMPLOYEES MOVING BETWEEN STATE, CITY, AND COUNTY GOVERNMENT TO PORT THEIR SICK AND ANNUAL LEAVE.

The General Assembly of North Carolina enacts:

SECTION 1. The Legislative Research Commission may study the issue of allowing the State Personnel Commission to transfer an employee's accrued annual and sick leave from a city or county, and allowing such transfers for employees shifting employment between units of local government. In conducting the study, the Commission shall consider the fiscal impact of allowing the transfers, including any impact on the Teachers' and State Employees' Retirement System and Local Governmental Employees' Retirement System.

SECTION 2. The Legislative Research Commission may make an interim report to the 2011 General Assembly and shall make its final report to the 2011 General Assembly, Regular Session 2012.

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

SENATE BILL 1386:
Government Employees Port Benefits

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Pensions and Retirement	**Date:**	June 25, 2010
Introduced by:	Sen. East	**Prepared by:**	Theresa Matula Committee Staff
Analysis of:	Third Edition		

SUMMARY: ***Senate Bill 1386 authorizes the Legislative Research Commission to study issues related to allowing former local government employees to transfer accumulated sick and annual leave balances from a local government employer to a State government employer and to study the issues related to allowing leave balance transfers from one local government employer to another local government employer.***

CURRENT LAW:

G.S. 126-4 authorizes the State Personnel Commission to set hours and days of work, vacation and sick leave and other conditions of employment.

G.S. 153A-42 authorizes the boards of county commissioners to fix pay and other compensation for county officers and employees.

G.S. 160A-162 authorizes city councils to fix pay and other compensation for city employees.

BILL ANALYSIS:

Senate Bill 1386 authorizes the Legislative Research Commission (LRC) to study issues related to the transfer of annual and sick leave balances from local government employers to State government employers when employees change jobs. The LRC would also be authorized to study leave balance transfers among local government employers. During the course of the study, the LRC is required to consider the impact of allowing leave balance transfers on the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System.

The LRC is authorized to make an interim report to the 2011 General Assembly and a final report to the 2012 Regular Session of the 2011 General Assembly.

This bill would become effective when it becomes law.

Barbara Riley contributed to this summary.

S1386-SMSH-198(e3) v2

VISITOR REGISTRATION SHEET

State Gov't/State Personnel — 6/29/10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Saundra White	NC CCPS
Carl Dean	DSP
Chuck Stone	SEANC
Alice Garland	NCEL
Fred Bone	Bone Assoc.

VISITOR REGISTRATION SHEET

State Govt/State Personnel — 6/29/10

Name of Committee — Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Rowe	NC Justice Center
Nick Tosco	NCLM
Weatherly Rose	Hunton & Williams
Mitzi Campbell	Jordan Price
Jimmy Bryson	TWC
MIKE WATERS	NCRPA

Minutes
House Committee on State Government/State Personnel
Tuesday, July 6, 2010

The House Committee on State Government/State Personnel met in the House Chamber around Representative Wilkins' desk on Tuesday, July 6, 2010, at 5:25 PM during a recess of the Session. In addition to Chairman Wilkins, the following members were present: Vice Chairs Gill, Jackson and Mobley and Representatives Heagarty, Justus, Randleman, Sutton, Wiley and Womble. Also present were staff attorneys Karen Cochrane-Brown, Theresa Matula and Shirley Iorio; and Committee Assistant Nancy Brantley.

The following bills were considered:

HB 213, VSL Nonfamily Sick Leave Donations. Representative Insko, sponsor, explained the bill, which allows State employees and public school employees to transfer up to five days of sick leave per year to an employee who is a non-family member. Representative Sutton made a motion recommending that the House concur. The motion was adopted.

SB 1213, Amend State Purchases & Contracts Laws. Representative Cole was recognized to explain the bill which would require State agencies and institutions (exempt from Article 3 of Chapter 143) to comply with certain requirements regarding the review and award of contracts; to submit statewide and agency term contracts over $1 million to the Attorney General for review; and generally prohibit the use of cost plus percentage cost contracts. The bill was a recommendation of the Joint Legislative Program Evaluation Oversight Committee. Representative Sutton moved for a favorable report and recommendation that the bill be re-referred to the Committee on Judiciary II. The motion was adopted.

The meeting was adjourned at 5:35 PM.

Respectfully submitted,

Representative Winkie Wilkins
Chairman

Nancy G. Brantley
Committee Assistant

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Senate Committee Substitute for

HB 213 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NONFAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT AND FOR PUBLIC SCHOOL EMPLOYEES, AND TO REQUIRE THE STATE PERSONNEL COMMISSION, THE STATE BOARD OF EDUCATION, AND THE STATE BOARD OF COMMUNITY COLLEGES TO MAKE AN ANNUAL REPORT ON THE VOLUNTARY SHARED LEAVE PROGRAM.

☒ With recommendation that the House concur.

(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 _____.

2009 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative Wilkins (Chair) for the Committee on STATE GOVERNMENT/STATE PERSONNEL.

☒Committee Substitute for
SB 1213 A BILL TO BE ENTITLED AN ACT INCREASING THE AUTHORITY OF THE SECRETARY OF ADMINISTRATION TO PROVIDE OVERSIGHT OF THE REVIEW AND AWARD OF CONTRACTS AND TO ENHANCE THE EFFICIENCY AND EFFECTIVENESS OF THE CONTRACTS PROCESS, REQUIRING ALL STATE AGENCIES AND INSTITUTIONS EXEMPT FROM ARTICLE 3 OF CHAPTER 143 OF THE GENERAL STATUTES TO COMPLY WITH CERTAIN REQUIREMENTS REGARDING THE REVIEW AND AWARD OF CONTRACTS, REQUIRING THE ATTORNEY GENERAL TO REVIEW CERTAIN CONTRACTS, AND PROHIBITING THE USE OF COST PLUS PERCENTAGE OF COST CONTRACTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on JUDICIARY II.

(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 _____.

NORTH CAROLINA GENERAL ASSEMBLY

HOUSE COMMITTEE ON STATE GOVERNMENT/ STATE PERSONNEL

AGENDA
Tuesday, July 6, 2010, in House Chamber
During Recess of Session

I. Agenda Items

HB 213	**VSL Nonfamily Sick Leave Donations** **Representative Verla Insko**
SB 1213	**Amend State Purchases & Contracts Laws** **Senator Daniel Clodfelter**

II. Discussion

III. Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H 4

HOUSE BILL 213

Committee Substitute Favorable 5/4/09
Committee Substitute #2 Favorable 5/12/09
Senate Education/Higher Education Committee Substitute Adopted 6/30/10

Short Title: VSL Nonfamily Sick Leave Donations. (Public)

Sponsors:

Referred to:

February 19, 2009

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE ADOPTION OF RULES AND POLICIES FOR THE VOLUNTARY SHARED LEAVE PROGRAM THAT WILL PERMIT THE DONATION OF SICK LEAVE TO A NONFAMILY MEMBER RECIPIENT FOR STATE EMPLOYEES SUBJECT TO THE STATE PERSONNEL ACT AND FOR PUBLIC SCHOOL EMPLOYEES, AND TO REQUIRE THE STATE PERSONNEL COMMISSION, THE STATE BOARD OF EDUCATION, AND THE STATE BOARD OF COMMUNITY COLLEGES TO MAKE AN ANNUAL REPORT ON THE VOLUNTARY SHARED LEAVE PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-8.3 reads as rewritten:

"**§ 126-8.3. Voluntary shared leave.**

(a) The State Personnel Commission, in cooperation with the State Board of Community Colleges and the State Board of Education, shall adopt rules and policies to allow any employee at a State agency to share leave voluntarily with an immediate family member who is an employee of a State agency, community college, or public school; and with a coworker's immediate family member who is an employee of a State agency, community college, or public school. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Personnel Commission shall adopt rules and policies for the voluntary shared leave program to allow an employee at a State agency to donate sick leave to a nonfamily member employee of a State agency. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 20 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 2. G.S. 115C-12.2 reads as rewritten:

"**§ 115C-12.2. Voluntary shared leave.**

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Personnel Commission, shall adopt rules and policies to allow any

employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a nonfamily member employee of a public school. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 20 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave."

SECTION 3. The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges shall annually report on the voluntary shared leave program. For the prior fiscal year, the report shall include the total number of days or hours of vacation leave and sick leave donated and used by voluntary shared leave recipients and the total cost of the vacation leave and sick leave donated and used. The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges shall provide a report for each fiscal year as required by this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on or before October 15 each year.

SECTION 4. This act becomes effective January 1, 2011.

HOUSE BILL 213:
VSL Nonfamily Sick Leave Donations

2009-2010 General Assembly

Committee:	House State Government/State Personnel	**Date:**	July 6, 2010
Introduced by:	Reps. Insko, Lucas, Hurley	**Prepared by:**	Theresa Matula
Analysis of:	Fourth Edition		Committee Staff

SUMMARY: ***House Bill 213 allows State employees and public school employees to transfer up to 5 days of sick leave per year to an employee who is a non-family member. No employee could receive more than 20 days per year of sick leave donated by non-family members. Donated sick leave could not be used for retirement purposes, and the donor would have to be notified in writing of the State retirement credit consequences of donating sick leave. The bill also requires the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to make an annual report on the voluntary shared leave program.***

[As introduced, this bill was identical to S352, as introduced by Sen. Kinnaird, which is currently in Senate Appropriations/Base Budget.]

BILL STATUS/CONCURRENCE: This bill is before the committee for concurrence. On May 4, 2009, the H. State Government Committee gave a favorable report to a PCS on H 213. Changes since that time include: the removal of the community college system from the bill; reduction from 30 to 20 in the total number of days contributed; and the addition of the reporting requirement in Section 3.

CURRENT LAW: G.S. 126-8.3, G.S. 115C-12.2 and G.S. 115D-25.3 require the State Personnel Commission, the State Board of Education and the State Board of Community Colleges to adopt rules to allow employees of State agencies, public schools, and community colleges to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency. The statutes speak to the sharing of leave generally but policies to implement the statutes have only permitted the sharing of sick leave between family members.

BILL ANALYSIS: **Sections 1 and 2** of HB 213 direct the State Personnel Commission and the State Board of Education to adopt rules and policies for the voluntary shared leave program to allow an employee to donate sick leave to a nonfamily member employee under the following conditions:

- The donor of the sick leave would not be able to donate more than 5 days of sick leave to any one nonfamily member recipient.
- The combined total of sick leave donated to a recipient from nonfamily member donors may not exceed 20 days per year.
- Donated sick leave may not be used for retirement purposes.
- Employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave.

Section 3 requires the State Personnel Commission, the State Board of Education, and the State Board of Community Colleges to annually report on the voluntary shared leave program to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on or before October 15 of each year. The report must include (for the prior fiscal year) the total number of days or hours of vacation leave and sick leave donated and used by voluntary shared leave recipients and the total cost of the vacation leave and sick leave donated and used.

EFFECTIVE DATE: The act would become effective January 1, 2011.

**Shirley Iorio and Bill Gilkeson contributed to this summary.*
H213-SMSH-207(e4) v1

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S 2

SENATE BILL 1213*
Judiciary II Committee Substitute Adopted 6/16/10

Short Title: Amend State Purchases & Contracts Laws. (Public)

Sponsors:

Referred to:

May 19, 2010

A BILL TO BE ENTITLED

AN ACT INCREASING THE AUTHORITY OF THE SECRETARY OF ADMINISTRATION TO PROVIDE OVERSIGHT OF THE REVIEW AND AWARD OF CONTRACTS AND TO ENHANCE THE EFFICIENCY AND EFFECTIVENESS OF THE CONTRACTS PROCESS, REQUIRING ALL STATE AGENCIES AND INSTITUTIONS EXEMPT FROM ARTICLE 3 OF CHAPTER 143 OF THE GENERAL STATUTES TO COMPLY WITH CERTAIN REQUIREMENTS REGARDING THE REVIEW AND AWARD OF CONTRACTS, REQUIRING THE ATTORNEY GENERAL TO REVIEW CERTAIN CONTRACTS, AND PROHIBITING THE USE OF COST PLUS PERCENTAGE OF COST CONTRACTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18C-150 reads as rewritten:

"**§ 18C-150. Procurements.**

The Commission shall be exempt from Article 3 of Chapter 143 of the General Statutes but may use the services of the Department of Administration in procuring goods and services for the Commission. However, the Commission shall include in all contracts to be awarded by the Commission under this section a standard clause which provides that the State Auditor and internal auditors of the Commission may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commission shall not award a cost plus percentage of cost contract for any purpose. For purposes of this provision, "cost plus percentage of cost contract" is defined as a contract under which the contractor receives payment for indeterminate costs plus a stated percentage or amount of profit based upon such costs. This provision shall not apply to Commission contracts that require costs to be predetermined and approved by the Commission and a total not to exceed the amount specified in each contract to be paid to the contractor."

SECTION 2. G.S. 53-320(d) reads as rewritten:

"**§ 53-320. Examinations; periodic reports; cooperative agreements; assessment of fees.**

...

(d) The Commissioner may enter into agreements with any bank supervisory agency supervising (i) a State trust institution engaging in trust business outside this State or (ii) an out-of-state trust institution maintaining a trust office or representative trust office in this State to engage the services of the agency's examiners at a reasonable rate of compensation or to provide the services of the Commissioner's examiners to the agency at a reasonable rate of compensation. Article 3 of Chapter 143 of the General Statutes does not apply to agreements authorized by this subsection. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment,

and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 3. G.S. 53-326(d) reads as rewritten:

"**§ 53-326. Examinations; periodic reports; cooperative agreements; assessment of fees.**

...

(d) The Commissioner may enter into agreements with bank supervisory agencies supervising (i) a State trust institution engaging in trust business in a foreign country or (ii) a foreign trust institution maintaining a trust office or representative trust office in this State to engage the services of the bank supervisory agency's examiners at a reasonable rate of compensation or to provide the services of the Commissioner's examiners to the bank supervisory agency at a reasonable rate of compensation. Article 3 of Chapter 143 of the General Statutes does not apply to agreements authorized by this section. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 4. G.S. 53-391 reads as rewritten:

"**§ 53-391. Employment of counsel, accountants, and other experts; compensation.**

The Commissioner, for the purpose of exercising any power under the provisions of this Subpart, may (i) employ any liquidating agents, attorneys, accountants, consultants, and clerks necessary to properly conduct the business of or liquidate and distribute the assets of a State trust company; (ii) fix the compensation for the agents, attorneys, accountants, consultants, and clerks; and (iii) pay the compensation of those persons out of the assets of the State trust company. Provided, that all expenditures described in this section shall be approved by the resident or presiding judge in the county in which the action is pending. Payments made by the Commissioner pursuant to this section shall not be subject to the requirements of Article 3 of Chapter 143 of the General Statutes. As used in this Subpart, the term "Commissioner" includes the Commissioner's duly appointed agents. The Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this section a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 5. G.S. 53-401 reads as rewritten:

"**§ 53-401. Provisions for conservator; duties and powers.**

Whenever the Commissioner deems it necessary in order to conserve the assets of a State trust company for the benefit of clients or creditors, the Commissioner may appoint a conservator for the State trust company and require of the conservator a bond with any surety the Commissioner deems necessary and proper in an amount deemed sufficient by the Commissioner. The conservator, under the direction of the Commissioner, shall take possession of the fiduciary records and other books, records, and assets of every description of the State trust company placed under conservatorship and take actions necessary to conserve those assets pending further disposition of its business as provided by law. Except as provided in G.S. 53-405, the conservator shall have all rights, powers, and privileges, subject to the approval of the Commissioner, now possessed by or given to the Commissioner under the provisions of Subpart B and Subpart D of this Part. All expenses of the conservator shall be paid out of the assets of the State trust company under conservatorship and shall be a lien thereon which shall be prior to any other lien provided by law. The compensation of the conservator shall be determined by the Commissioner and shall be based on the time and experience of the conservator and the complexity of the conservatorship. Compensation of the conservator shall not be subject to the requirements of Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Commissioner under this section a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the conservator during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 6. G.S. 58-2-69(g) reads as rewritten:

"**§ 58-2-69. Notification of criminal convictions and changes of address; service of notice; contracts for online services, administrative services, or regulatory data systems.**

...

(g) The Commissioner may contract with the NAIC or other persons for the provision of online services to licensees, for the provision of administrative services to licensees, or for the provision of regulatory data systems to the Commissioner. The NAIC or other person with whom the Commissioner contracts may charge licensees a reasonable fee for the costs associated with the licensees' use of online services and administrative services. The fee shall be agreed to by the Commissioner and the other contracting party and shall be stated in the contract. Contracts for the provision of online services, contracts for the provision of administrative services, and contracts for the provision of regulatory data systems shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 7. G.S. 58-33-30(e) reads as rewritten:

"**§ 58-33-30. License requirements.**

The Commissioner shall not issue or continue any license of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser except as follows:

...

(e) Examination.

...

(4) The answers of the applicant to the examination shall be provided by the applicant under the Commissioner's supervision. The Commissioner shall give examinations at such times and places within this State as the Commissioner considers necessary reasonably to serve the convenience of both the Commissioner and applicants: Provided that the Commissioner may contract directly with persons for the processing of examination application forms and for the administration and grading of the examinations required by this section; the Commissioner may charge a reasonable fee in addition to the registration fee charged under G.S. 58-33-125, to offset the cost of the examination contract authorized by this subsection; and such contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost contract for any purpose.

(5) The Commissioner shall collect in advance the examination and registration fees provided in G.S. 58-33-125 and in subsection (4) of this section. The Commissioner shall make or cause to be made available to all applicants, for a reasonable fee to offset the costs of production, materials that he considers necessary for the applicants' proper preparation for examinations. The Commissioner may contract directly with publishers and other suppliers for the production of the preparatory materials, and contracts so let by the Commissioner shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost contract for any purpose.

...."

SECTION 8. G.S. 58-33-125(e) reads as rewritten:

"**§ 58-33-125. Fees.**

...

(e) A resident licensee may obtain a duplicate photo-bearing license at times and places within this State that the Commissioner considers necessary and reasonable to serve the convenience of both the Commissioner and the licensee. The Commissioner may contract directly with persons for processing of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for duplicating a photo-bearing license in an amount that offsets the costs to the Department of duplicating the license, including costs associated with any contract entered into pursuant to this subsection. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 9. G.S. 58-33-130(a) reads as rewritten:

"**§ 58-33-130. Continuing education program for licensees.**

(a) The Commissioner may adopt rules to provide for a program of continuing education requirements for the purpose of enhancing the professional competence and professional responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria for:

(1) The content of continuing education courses;
(2) Accreditation of continuing education sponsors and programs;
(3) Accreditation of videotape or other audiovisual programs;
(4) Computation of credit;
(5) Special cases and exemptions;
(6) General compliance procedures; and
(7) Sanctions for noncompliance.

The Commissioner may contract directly with persons for the administration of the program provided for by this section, and those contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose. The Commissioner may charge a reasonable fee to course providers to offset the cost of the program, including costs associated with contracts authorized by this subsection. The fee authorized by this subsection shall be in addition to the fees specified in G.S. 58-33-133. As used in this section and in G.S. 58-33-132, "administrator" means any person with whom the Commissioner has contracted under this subsection.

...."

SECTION 10. G.S. 58-71-40(d) reads as rewritten:

"**§ 58-71-40. Bail bondsmen and runners to be qualified and licensed; license applications generally.**

...

(d) When a license is issued under this section, the Commissioner shall issue a picture identification card, of design, size, and content approved by the Commissioner, to the licensee. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license terminates or is terminated shall surrender the identification card to the Commissioner within 10 working days after the termination. The Commissioner may contract directly with persons for the processing and issuance of picture identification cards required by this section and may charge a reasonable fee in addition to the license fee charged under G.S. 58-71-55 in an amount that offsets the cost of the service, including the costs associated with the contract authorized by this subsection. Contracts entered into pursuant to this subsection shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 11. G.S. 63A-24((1) reads as rewritten:

"**§ 63A-24. General laws apply to Authority; exceptions.**

Except as provided in this section, the general laws that apply to State agencies apply to the Authority. The following general laws, to the extent provided below, do not apply to the Authority:

(1) Article 3 of Chapter 143 of the General Statutes does not apply to contracts for services listed in 49 U.S.C. § 2210(a)(16) or contracts for special user projects. That Article also does not apply to other contracts for projects, but, with respect to these other contracts, the powers and duties established in that Article shall be exercised by the Authority and the Secretary of Administration, and other State officers, employees, or agencies shall have no duties or responsibilities concerning the contracts. However, the Authority shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Authority under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Authority may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Authority shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 12. G.S. 84-23(d) reads as rewritten:

"**§ 84-23. Powers of Council.**

...

(d) The Council may acquire, hold, rent, encumber, alienate, lease, and otherwise deal with real or personal property in the same manner as any private person or corporation, subject only to the approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing and sale of real property. The Council may borrow money upon its bonds, notes, debentures, or other evidences of indebtedness sold through public or private sale

pursuant to a loan agreement or a trust agreement or indenture with a trustee, with such borrowing either unsecured or secured by a mortgage on the Council's interest in real or personal property, and engage and contract with attorneys, underwriters, financial advisors, and other parties as necessary for such borrowing, with such borrowing and security subject to the approval of the Governor and the Council of State. The Council may utilize the services of the Purchase and Contract Division of the Department of Administration to procure personal property, in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. However, the Council shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Council under this subsection a standard clause which provides that the State Auditor and internal auditors of the Council may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Council shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 13. G.S. 89E-5(e) reads as rewritten:

"**§ 89E-5. Functions and duties of the Licensing Board.**

...

(e) The Board may authorize expenditures deemed necessary to carry out the provisions of this Chapter and all expenses shall be paid upon the warrant of the Board treasurer. The Board treasurer shall deposit funds received by the Board in one or more funds in banks or other financial institutions carrying deposit insurance and authorized to do business in North Carolina. Interest earned on such funds may remain in the funds account and may be expended as authorized by the Board to carry out the provisions of this Chapter. In no event may expenditures exceed the revenues of the Board during any fiscal year. The Board is authorized and empowered to utilize the services of the Purchase and Contract Division of the Department of Administration for the procurement of personal property, in accordance with Article 3 of Chapter 143 of the General Statutes. The Board shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 14. G.S. 89F-5(d) reads as rewritten:

"**§ 89F-5. Powers and duties of the Board.**

...

(d) The Board may employ the necessary personnel for the performance of its functions and shall fix their compensation within the limits of funds available to the Board. The Board may procure personal property in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. The Board shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 15. G.S. 108A-55(b) reads as rewritten:

"**§ 108A-55. Payments.**

...

(b) Payments shall be made only to intermediate care facilities, hospitals and nursing homes licensed and approved under the laws of the State of North Carolina or under the laws of another state, or to pharmacies, physicians, dentists, optometrists or other providers of health-related services authorized by the Department. Payments may also be made to such fiscal intermediaries and to the capitation or prepaid health service contractors as may be authorized by the Department. Arrangements under which payments are made to capitation or prepaid health services contracts are not subject to the provisions of Chapter 58 of the General Statutes or of Article 3 of Chapter 143 of the General Statutes. However, the Department shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Department under this subsection a standard clause which provides that the State Auditor and internal auditors of the Department may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Department shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 16. Article 1 of Chapter 114 of the General Statutes is amended by adding the following new section to read as follows:

"**§ 114-8.3. Attorney General to review certain contracts.**

(a) Except as provided in subsection (b) of this section, the Attorney General or the Attorney General's designee shall review all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) to ensure that the proposed contracts are in proper legal form, contain all clauses required by law, are legally enforceable, and accomplish the intended purposes of the proposed contract. The term "review" as used in this section shall not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "Attorney General's designee" shall include any attorney approved by the Attorney General to review contracts as provided in this subsection. The Attorney General shall require that any attorney designated under this subsection comply with any rules established by the Attorney General or the Department of Administration regarding the review of contracts.

(b) For the constituent institutions of The University of North Carolina, the General Counsel of each institution or the General Counsel's designee shall review all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) to ensure that the proposed contracts are in proper legal form, contain all clauses required by law, are legally enforceable, and accomplish the intended purposes of the proposed contract. The term "review" as used in this section shall not constitute approval or disapproval of the policy merit or lack thereof of the proposed contract. For purposes of this subsection, the term "General Counsel's designee" shall include any attorney approved by the General Counsel to review contracts as provided in this subsection. The General Counsel shall require that any attorney designated under this subsection comply with any rules established by the Attorney General or the Department of Administration regarding the review of contracts."

SECTION 17. G.S. 115D-67.4 reads as rewritten:

"**§ 115D-67.4. Fees collected by the Center; purchases using Center funds.**

Notwithstanding any other provision of law, all fees collected by the Applied Textile Technology Center for services to the textile industry, except for regular curriculum and continuing education tuition receipts, shall be retained by the Center and used for the

operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes. However, the Center shall: (i) submit all proposed statewide and agency term agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this section to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Center under this section a standard clause which provides that the State Auditor and internal auditors of the Center may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Center shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 18.(a) G.S. 135-43(b) reads as rewritten:

"**§ 135-43. Confidentiality of information and medical records; provider contracts.**

...

(b) Notwithstanding the provisions of this Article, the Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees may contract with providers of institutional and professional medical care and services to establish preferred provider networks.

The terms of a contract between the Plan and its third party administrator or between the Plan and its pharmacy benefit manager are a public record except that the terms in those contracts that contain trade secrets or proprietary or competitive information are not a public record under Chapter 132 of the General Statutes, and any such proprietary or competitive information and trade secrets contained in the contract shall be redacted by the Plan prior to making it available to the public. This subsection shall not be construed to prevent or restrict the release of any information made not a public record under this subsection to the State Auditor, the Attorney General, the Director of the State Budget, the Plan's Executive Administrator, and the Committee on Employee Hospital and Medical Benefits solely and exclusively for their use in the furtherance of their duties and responsibilities, and to the Department of Health and Human Services solely for the purpose of implementing the transition of NC Health Choice from the Plan to the Department of Health and Human Services. The design, adoption, and implementation of the preferred provider contracts, networks, and optional alternative comprehensive health benefit plans, and programs available under the optional alternative plans, as authorized under G.S. 135-45 are not subject to the requirements of Article 3 of Chapter 143 of the General Statutes. However, the Executive Administrator and Board of Trustees shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Executive Administrator and Board of Trustees under this section a standard clause which provides that the State Auditor and internal auditors of the Plan may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Executive Administrator and Board of Trustees shall not award a cost plus percentage of cost agreement or contract for any purpose. The Executive Administrator and Board of Trustees shall make reports as requested to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Committee on Employee Hospital and Medical Benefits.

...."

SECTION 18.(b) G.S. 135-45 is amended by adding a new subsection to read:

"(d1) The Executive Administrator and Board of Trustees shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by subsection (d) of this section to the Attorney General or the Attorney General's designee for review as

provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Executive Administrator and Board of Trustees under this section a standard clause which provides that the State Auditor and internal auditors of the Plan may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Executive Administrator and Board of Trustees shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 19. G.S. 136-28.1(h) reads as rewritten:

"**§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.**

...

(h) The Department of Transportation may enter into contracts for applied research and experimental work without soliciting bids or proposals; provided, however, that if the research or work is for the purpose of testing equipment, materials, or supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply. However, the Department of Transportation shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Department of Transportation under this subsection a standard clause which provides that the State Auditor and internal auditors of the Department of Transportation may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Department of Transportation shall not award a cost plus percentage of cost agreement or contract for any purpose. The Department of Transportation is encouraged to solicit proposals when contracts are entered into with private firms when it is in the public interest to do so.

...."

SECTION 20.1. G.S. 136-89.194(g) reads as rewritten:

"**§ 136-89.194. Laws applicable to the Authority; exceptions.**

...

(g) Contract Exemptions. – The following provisions concerning the purchase of goods and services by a State agency do not apply to the Turnpike Authority:

(1) Article 3 of Chapter 143 of the General Statutes. The Authority may use the services of the Department of Administration in procuring goods and services that are not specific to establishing and operating a toll revenue system. However, the Authority shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and, (ii) include in all proposed contracts to be awarded by the Authority under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Authority may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Authority shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 20.2. G.S. 143-48.1 is amended by adding a new subsection to read:

"**§ 143-48.1. Medicaid program exemption.**

(a) This Article shall not apply to any capitation arrangement or prepaid health service arrangement implemented or administered by the North Carolina Department of Health and Human Services or its delegates pursuant to the Medicaid waiver provisions of 42 U.S.C. § 1396n, or to the Medicaid program authorizations under Chapter 108A of the General Statutes.

(b) As used in this section, the following definitions apply:

(1) "Capitation arrangement" means an agreement whereby the Department of Health and Human Services pays a periodic per enrollee fee to a contract entity that provides medical services to Medicaid recipients during their enrollment period.

(2) "Prepaid health services" means services provided to Medicaid recipients that are paid on the basis of a prepaid capitation fee, pursuant to an agreement between the Department of Health and Human Services and a contract entity.

(c) The Department of Health and Human Services shall: (i) submit all proposed statewide and agency term contracts for a capitation arrangement or prepaid health services, as defined by this section, that exceed one million dollars ($1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all agreements or contracts to be awarded by the Department under this section a standard clause which provides that the State Auditor and internal auditors of the Department may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Department shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 21. G.S. 143-49 is amended by adding the following new subdivision to read:

"**§ 143-49. Powers and duties of Secretary.**

...

(9) To include a standard clause in all contracts awarded by the State and departments, agencies, and institutions of the State, providing that the State Auditor and internal auditors of the affected department, agency, or institution may audit the records of the contactor during the term of the contract to verify accounts and data affecting fees or performance.

(10) To monitor and enforce the terms and conditions of statewide term contracts. The Secretary of Administration shall not delegate the power and authority granted under this subdivision to any other department, agency, or institution of the State.

(11) To develop rules, regulations, and procedures specifying the manner in which departments, agencies, and institutions of the State shall monitor and enforce agency term and non-term contracts.

(12) To consult with the Attorney General or the Attorney General's designee in developing rules, regulations, and procedures providing for the orderly and efficient submission of proposed statewide term, agency term, and non-term contracts to the Attorney General for review as provided in G.S. 114-8.3 and G.S. 143-52.2.

(13) To implement a quality management system equivalent to the International Organization for Standardization (ISO) 9001:2008 to ensure that citizen and agency customer requirements are met. By September 1, 2012, and more frequently as requested, the Secretary shall report to the Joint Legislative Commission on Governmental Operations, the Program Evaluation Division, and the Fiscal Research Division concerning the progress of the Department's effort to comply with the provisions of this subdivision.

(14) To work in conjunction with the Office of State Personnel to create a Contracting Specialist career path to provide for the designation of one or more employees within each department, agency, or institution of the State to serve as the Contracting Specialist for the department, agency, or

institution. Employees on the Contracting Specialist career path shall receive training and guidance as to the provisions of this Article.

(15) To work in conjunction with the Office of State Personnel, the Division of Purchase and Contract, and the University of North Carolina School of Government to develop a rigorous contract management training and certification program for State employees. The program shall be administered by the Office of State Personnel.

(16) To work in conjunction with the University of North Carolina School of Government to study and recommend improvements to State procurement laws, including the feasibility of adopting the provisions of the American Bar Association Model Procurement Code."

SECTION 22. G.S. 143-52 reads as rewritten:

"**§ 143-52. Competitive bidding procedure; consolidation of estimates by Secretary; bids; awarding of ~~contracts.~~contracts; cost plus percentage of cost contracts strictly prohibited.**

...

(c) Neither the Department of Administration nor any department, agency, or institution of the State may award a cost plus percentage of cost contract for any purpose, except as provided in G.S. 18C-150."

SECTION 23. Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-52.2. Certain contracts subject to review by Attorney General.**

The Secretary of Administration and every department, agency, and institution of the State shall submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3(a). This section shall not apply to the constituent institutions of The University of North Carolina."

SECTION 24. G.S. 143-134 reads as rewritten:

"**§ 143-134. Applicable to Department of Transportation and Department of Correction; ~~exceptions.~~exceptions; all contracts subject to review by Attorney General and State Auditor.**

(a) This Article shall apply to the Department of Transportation and the Department of Correction except in the construction of roads, bridges and their approaches; provided however, that whenever the Director of the Budget determines that the repair or construction of a building by the Department of Transportation or by the Department of Correction can be done more economically through use of employees of the Department of Transportation and/or prison inmates than by letting such repair or building construction to contract, the provisions of this Article shall not apply to such repair or construction.

(b) Notwithstanding the provisions of subsection (a) of this section, the Department of Transportation and the Department of Correction shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Department of Transportation or the Department of Correction a standard clause which provides that the State Auditor and internal auditors of the Department of Transportation or the Department of Correction may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. Neither the Department of Transportation nor the Department of Correction shall award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 25. G.S. 143-151.16(d) reads as rewritten:

"**§ 143-151.16. Certification fees; renewal of certificates; examination fees.**

...

(d) The Board may contract with persons for the development and administration of the examinations required by G.S. 143-151.13(a), for course development related to the examinations, for review of a particular applicant's examination, and for other related services. The person with whom the Board contracts may charge applicants a reasonable fee for the costs associated with the development and administration of the examinations, for course development related to the examinations, for review of the applicant's examinations, and for other related services. The fee shall be agreed to by the Board and the other contracting party. The amount of the fee under this subsection shall not exceed one hundred seventy-five dollars ($175.00). Contracts for the development and administration of the examinations, for course development related to the examinations, and for review of examinations shall not be subject to Article 3, 3C, or 8 of Chapter 143 of the General Statutes or to Article 3D of Chapter 147 of the General Statutes. However, the Board shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Board under this subsection a standard clause which provides that the State Auditor and internal auditors of the Board may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Board shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 26. G.S. 143B-131.2(b)(15) reads as rewritten:

"**§ 143B-131.2. Roanoke Island Commission – Purpose, powers, and duties.**

...

(b) The Commission shall have the following powers and duties:

...

(15) To procure supplies, services, and property as appropriate and to enter into contracts, leases, or other legal agreements to carry out the purposes of this Part and duties of the Commission. The provisions of G.S. 143-129 and Article 3 of Chapter 143 of the General Statutes do not apply to purchases by the Roanoke Island Commission of equipment, supplies, and services. However, the Commission shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Commission under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commission may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Commission shall not award a cost plus percentage of cost agreement or contract for any purpose."

SECTION 27. G.S. 147-64.6(c)(18) reads as rewritten:

"**§ 147-64.6. Duties and responsibilities.**

...

(c) The Auditor shall be responsible for the following acts and activities:

...

(18) The Auditor shall, after consultation and in coordination with the State Chief Information Officer, assess, confirm, and report on the security practices of information technology systems. If an agency has adopted standards pursuant to G.S. 147-33.111(a), the audit shall be in accordance with those

standards. The Auditor's assessment of information security practices shall include an assessment of network vulnerability. The Auditor may conduct network penetration or any similar procedure as the Auditor may deem necessary. The Auditor may enter into a contract with a State agency under G.S. 147-33.111(c) for an assessment of network vulnerability, including network penetration or any similar procedure. Any contract with the Auditor for the assessment and testing shall be on a cost-reimbursement basis. The Auditor may investigate reported information technology security breaches, cyber attacks, and cyber fraud in State government. The Auditor shall issue public reports on the general results of the reviews undertaken pursuant to this subdivision but may provide agencies with detailed reports of the security issues identified pursuant to this subdivision which shall not be disclosed as provided in G.S. 132-6.1(c). The Auditor shall provide the State Chief Information Officer with detailed reports of the security issues identified pursuant to this subdivision. For the purposes of this subdivision only, the Auditor is exempt from the provisions of Article 3 of Chapter 143 of the General Statutes in retaining contractors. However, the Auditor shall: (i) submit all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars ($1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all proposed contracts to be awarded by the Auditor under this subdivision a standard clause which provides that the Auditor may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees and performance. The Auditor shall not award a cost plus percentage of cost agreement or contract for any purpose.

...."

SECTION 28. This act becomes effective October 1, 2010, and applies to all contracts proposed or awarded on or after that date.

SENATE BILL 1213:
Amend State Purchases & Contracts Laws

2009-2010 General Assembly

Committee:	House State Government/State Personnel, if favorable, Judiciary II	**Date:**	July 6, 2010
Introduced by:	Sen. Clodfelter	**Prepared by:**	Theresa Matula * Committee Staff
Analysis of:	Second Edition		

SUMMARY: ***Senate Bill 1213 would: (i) require State agencies and institutions exempt from Article 3 (Purchases and Contracts) of Chapter 143 (State Departments, Institutions, and Commissions) to comply with certain requirements regarding the review and award of contracts; (ii) require all State entities (except constituent institutions of the University of North Carolina (UNC)) to submit statewide and agency term contracts over $1,000,000 to the Attorney General for review, and that the Attorney General (or designee or approved attorney) review the contracts (contracts of constituent institutions of UNC would need to be reviewed by the institution's General Counsel or designee); and (iii) generally prohibit the use of cost plus percentage cost contracts. The bill was a recommendation of the Joint Legislative Program Evaluation Oversight Committee.***

[As introduced, this bill was identical to H1851, as introduced by Reps. Cole, Crawford, which is currently in House State Government/State Personnel, if favorable, Judiciary II.]

CKGROUND:

This bill was a recommendation of the Joint Legislative Program Evaluation Oversight Committee. The issue of State purchasing and contracting was discussed at a meeting of the Committee on August 3, 2009. Background information and a summary of the bill prepared by Program Evaluation are attached to the summary.

BILL ANALYSIS:

Senate Bill 1213 would require various State agencies, departments, commissions, boards, and authorities, which are currently exempt from the State purchase and contracts requirements, to: (i) submit proposed statewide or agency term agreements or contracts over $1,000,000 to the Attorney General or the Attorney General's designee for review; and (ii) to include a standard clause in all agreements or contracts to be awarded which provides that the State Auditor and internal auditors of the relevant entity may audit the records of the contractor during the term of the agreement or contract to verify accounts and data affecting fees and performance. These entities include:

- State Lottery Commission;
- Commissioner of Banks (supervisory contracts, conservator contracts);
- Commissioner of Insurance (various service contracts);
- Global Transpark Authority (special user and airport projects);
- State Bar Council;
- Board for Licensing of Geologists;
- Board for Licensing of Soil Scientists;
- Department of Health and Human Services (Medical Assistance program (Medicaid) for fiscal intermediary, capitation or prepaid health services contracts);
- Applied Textile Technology Center;
- Executive Administrator and Board of Trustees of the State Health Plan for Teachers and State Employees;

- North Carolina Turnpike Authority;
- Departments of Transportation and Correction (road construction by employees and/or inmates);
- North Carolina Code Officials Qualification Board (course development and administration);
- Roanoke Island Commission; and
- State Auditor (system security assessment).

Senate Bill 1213 also:

- Prohibits the entities listed above (except the State Lottery Commission) from awarding a cost plus percentage of cost agreement or contract for any purpose (contracts under which the contractor receives payment for indeterminate costs plus a stated percentage or amount of profit based upon such costs).
- With the exception of the constituent institutions of UNC, requires State entities to submit proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed $1,000,000 to the Attorney General (or designee) for review.
- Requires the Attorney General or a designee to review all proposed statewide and agency term contracts for supplies, materials, printing, equipment, and contractual services that exceed $1,000,000 to ensure that proposed contracts are in proper legal form, contain all clauses required by law, are legally enforceable, and accomplish the intended purposes of the proposed contract. Such contracts of constituent institutions of UNC would need to be reviewed by the institution's General Counsel (or designee).
- Expands existing responsibilities of the Attorney General to assist the Secretary of Administration with contracting responsibilities. Requires the Secretary of Administration to, among other things, include specific provisions in all contracts, monitor all Statewide term contracts, and develop rules to implement the provisions of this bill.

EFFECTIVE DATE: This bill becomes effective October 1, 2010, and applies to all contracts proposed or awarded on or after that date.

**Jennifer McGinnis, staff to Senate Judiciary II substantially contributed to this summary.*

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