

**2011-2012**

**SENATE  
RULES**

**MINUTES**

**RULES AND OPERATIONS OF THE SENATE**  
**MEMBERSHIP LIST**

**Senator Tom Apodaca, Chairman**

**Senator Pete Brunstetter, Vice Chair**

**Senator Brent Jackson, Vice Chair**

**Senator Dan Blue**

**Senator Andrew Brock**

**Senator Harry Brown**

**Senator Linda Garrou**

**Senator Kathy Harrington**

**Senator Fletcher Hartsell**

**Senator Ellie Kinnaird**

**Senator Eric Mansfield**

**Senator Wesley Meredith**

**Senator Martin Nesbitt**

**Senator Buck Newton**

**Senator Jean Preston**

**Senator Bill Rabon**

**Senator Josh Stein**

## MINUTES

### RULES AND OPERATIONS OF THE SENATE

FEBRUARY 3, 2011

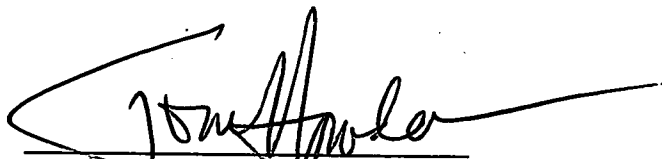
The Committee on Rules and Operations of the Senate met on February 3, 2011 at 9:30 A.M. in room 1027 of the Legislative Building. Thirteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca had members of the committee introduce themselves. He then introduced staff, pages, and sergeant-at-arms.

**SENATE BILL 17 – A JOINT RESOLUTION TO ESTABLISH THE JOINT REGULATORY REFORM COMMITTEE** - was presented by Senator Rouzer, bill sponsor. Senator Garrou sent forth an amendment and moved for the adoption. Motion carried. Senator Brunstetter moved for a favorable report as amended. Motion carried.

**SENATE BILL 21 – A SENATE RESOLUTION CREATING THE PROGRAM EVALUATION COMMITTEE AS A STANDING COMMITTEE OF THE SENATE** – was explained by Senator Clary, bill sponsor. Senator Stein made a motion for a favorable report. Motion carried.

The meeting adjourned at 9:40 A.M.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE JOINT RESOLUTION 17

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Sponsors: Senators Brown, Rouzer, Jackson; Allran, Apodaca, Bingham, Blake, Brock, Brunstetter, Clary, Daniel, East, Goolsby, Gunn, Harrington, Hartsell, Hise, Hunt, Meredith, Newton, Pate, Preston, Rabon, Rucho, Stevens, and Tillman.

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Referred to: Rules and Operations of the Senate.

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February 2, 2011

1 A JOINT RESOLUTION TO ESTABLISH THE JOINT REGULATORY REFORM  
2 COMMITTEE.

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

4       **SECTION 1.** Purpose. – There is hereby established the Joint Regulatory Reform  
5 Committee, hereinafter called the Committee, which shall work to create a strong environment  
6 for private sector job creation by lifting the undue burden imposed by outdated, unnecessary,  
7 and vague rules.

8       **SECTION 2.** Membership. – (a) The Committee consists of 16 members appointed  
9 as follows:

10       (1) Eight members of the Senate appointed by the President Pro Tempore of the  
11 Senate, three of whom are members of the Senate  
12 Agriculture/Environment/Natural Resources Committee and three of whom  
13 are members of the Senate Commerce Committee.

14       (2) Eight members of the House of Representatives appointed by the Speaker of  
15 the House of Representatives, three of whom are members of the House  
16 Environment Committee and three of whom are members of the House  
17 Commerce and Job Development Committee.

18       **SECTION 2.(b)** Members serve at the pleasure of the appointing authority.

19       **SECTION 3.** Powers. – The Joint Regulatory Reform Committee has the following  
20 powers and duties:

21       (1) Hold meetings and receive input from the public, regulated community, and  
22 agencies regarding outdated, unnecessary, unduly burdensome, or vague  
23 rules and rule-making procedures that are an impediment to private sector  
24 job creation.

25       (2) Evaluate the reform suggestions presented during the public comment  
26 process and determine which warrant introduction and consideration during  
27 the 2011 Session of the General Assembly in 2011 or 2012.

28       (3) Review the rule-making process to determine if the procedures for adopting  
29 rules give adequate consideration to the potential impact on job creation.

30       (4) Report to the General Assembly concerning any recommendations for  
31 statutory changes.

32       **SECTION 4.** Consideration of recommendations. – Notwithstanding any rule or  
33 joint resolution to the contrary, proposed legislation to implement any recommendation of the





1 Committee may be introduced and considered during the 2011 Regular Session of the General  
2 Assembly through sine die adjournment.

3 **SECTION 5. Organization.** – (a) The President Pro Tempore of the Senate and the  
4 Speaker of the House of Representatives shall each designate cochairs of the Committee. The  
5 Committee shall meet upon the joint call of the cochairs.

6 **SECTION 5.(b)** A quorum of the Committee is six members. No action may be  
7 taken except by a majority vote at a meeting at which a quorum is present.

8 **SECTION 5.(c)** While in the discharge of its official duties, the Committee has the  
9 powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

10 **SECTION 6. Expenses of members.** – Members of the Committee receive  
11 subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may meet in the  
12 Legislative Building or the Legislative Office Building upon the approval of the Legislative  
13 Services Commission. The Committee may also meet at other locations.

14 **SECTION 7. Staffing.** – The Legislative Services Commission, through the  
15 Legislative Services Office, shall assign professional staff to assist the Committee in its work.  
16 Upon the direction of the Legislative Services Commission, the Directors of Legislative  
17 Assistants of the Senate and of the House of Representatives shall assign clerical staff to the  
18 Committee.

19 **SECTION 8.** This resolution is effective upon ratification and expires December  
20 31, 2012.



# SENATE JOINT RESOLUTION 17: Joint Regulatory Reform Committee

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	February 2, 2011
<b>Introduced by:</b>	Sens. Brown, Rouzer, Jackson	<b>Prepared by:</b>	Giles S. Perry
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *Senate Joint Resolution 17 establishes the Joint Regulatory Reform Committee.*

**BILL ANALYSIS:** Senate Joint Resolution 17 establishes the Joint Regulatory Reform Committee:

**Membership:**

- Eight members of the Senate appointed by the President Pro Tempore of the Senate, three from Senate Agriculture/Environment/Natural Resources Committee and three from the Senate Commerce Committee.
- Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the House Environment Committee and three from the House Commerce and Job Development Committee.

**Powers and Duties:**

- Hold meetings and receive input from the public, regulated community, and agencies regarding outdated, unnecessary, unduly burdensome, or vague rules and rule-making procedures that are an impediment to private sector job creation.
- Evaluate the reform suggestions presented during the public comment process and determine which warrant introduction and consideration during the 2011 Session of the General Assembly in 2011 or 2012.
- Review the rule-making process to determine if the procedures for adopting rules give adequate consideration to the potential impact on job creation.
- Report to the General Assembly concerning any recommendations for statutory changes.

**Other Provisions:**

- Authorizes proposed legislation to implement any recommendation of the Committee may be introduced and considered during the 2011 Regular Session of the General Assembly through sine die adjournment.
- Committee is granted the powers of a joint committee under G.S. 120-19 to obtain information from other State agencies, and G.S. 120-19.1 through 120-19.4 to hold hearing, call witnesses, compel testimony by subpoena.

**EFFECTIVE DATE:** Effective upon ratification, expires December 31, 2012.

S17-SMRW-1(e1) v3

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

DATE \_\_\_\_\_

S. B. No. 17

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE \_\_\_\_\_

(to be filled in by  
Principal Clerk)

Rep.) Garren  
Sen.) \_\_\_\_\_

1 moves to amend the bill on page 2, line 9-10

2 ( ) WHICH CHANGES THE TITLE adding the following  
3 by Section 5 (d)

4 The committee shall submit  
5 its final report by May 1 2012.

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SIGNED Linda Aron

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**SENATE RESOLUTION 21**

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Sponsors: Senators Clary, Apodaca, Goolsby, Hise, and Preston.

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Referred to: Rules and Operations of the Senate.

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February 2, 2011

1 A SENATE RESOLUTION CREATING THE PROGRAM EVALUATION COMMITTEE  
2 AS A STANDING COMMITTEE OF THE SENATE.

3 Be it resolved by the Senate:

4       **SECTION 1.** In accordance with Senate Rule 31, as adopted by Senate Resolution  
5 1, the number of standing committees in the Senate is increased by adding the Program  
6 Evaluation Committee.

7       **SECTION 2.** This resolution is effective upon adoption.





## SENATE RESOLUTION 21: Add Program Evaluation Committee

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	February 2, 2011
<b>Introduced by:</b>	Sen. Clary	<b>Prepared by:</b>	Giles S. Perry
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *Senate Resolution 21 adds the Program Evaluation Committee as a standing committee of the Senate.*

**CURRENT LAW:** Senate Rule 31 provides, in part, that "upon the recommendation of the Committee on Rules and Operations of the Senate, the Senate may alter the name, number, and composition of the standing committees by a majority vote of the Senators present and voting."

**BILL ANALYSIS:** Senate Resolution 21 increases the number of standing committees in the Senate by adding the Program Evaluation Committee.

**EFFECTIVE DATE:** Upon Ratification.

**NORTH CAROLINA GENERAL ASSEMBLY**

**SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT**

**Senator Tom Apodaca, Chair**

**Thursday, February 03, 2011**

**Senator APODACA,**

**submits the following with recommendations as to passage:**

**ADOPTION**

**S.R. 21 Add Program Evaluation Committee.**

**Sequential Referral: None**

**Recommended Referral: None**

**TOTAL REPORTED: 1**

**Committee Clerk Comments:**

VISITOR REGISTRATION SHEET

2/3/2011

RULES

~~Joint Commission on Public-Private Partnerships~~

~~January 25, 2011~~

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Andrew Meehan	Capstrat
DIVICE BAUM	TROSTMAN SANDERS
Andrew Cole	ACC Assoc.
Preston Howard	MCIC
Michael Thompson	Cominion
Damon Curioth	NC WORK ED
Joy Peters	JTA Assoc/CSS
John Goodman	NC CHAMBER
Joy Adams	NCDA/CS
Tim McLaurell	NCICU
Gregg Dorn	BDS

Rules

VISITOR REGISTRATION SHEET

02/03/2011

~~Joint Commission on Public-Private Partnerships~~

~~January 25, 2011~~

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Patrick Buffkin	NCAEC
Mark Hill	Civitas
Col Dean	OSP
Don Crawford	NCCU
Amy White	NC med society
Jim Harrell	Harrell + assoc
ICW Ltd	BBB NL
John McAlistler	NL Chamber
Chy Byggs	NCMS
Amy Bason	NCAEC
Stephanie Buns	SEANCO





# PAGES ATTENDING

COMMITTEE: Rules ROOM: 1127LB

DATE: 2-3 TIME: 9:30

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
1 Sterling Carter	Yanceyville	Gunn
2 Aaron Teran	Raleigh	Hunt
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Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

**MINUTES**

**RULES AND OPERATIONS OF THE SENATE**

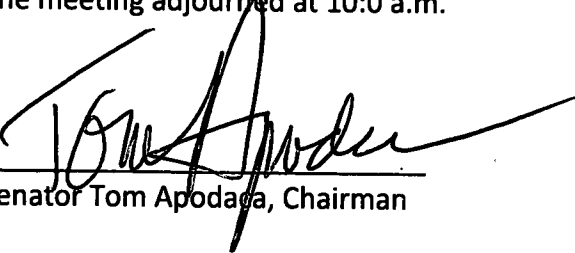
**April 7, 2011**


The Committee on Rules and Operations of the Senate met on Thursday, April 7, 2011 at 9:30 a.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced the pages and sergeant-at-arms.

**HOUSE BILL 316 – MODIFY NCGA POLICE POWERS.** Chairman Apodaca presented the Proposed Committee Substitute for HB 316 and Senator Brunstetter moved for adoption of the PCS. Senator Garrou had some concerns over the costs in the bill. Senator Nesbitt questioned why the need for this bill when we have law enforcement in the areas of the state. Senator Brunstetter moved for a favorable report to the Proposed Committee Substitute. Motion carried. These documents are attachment B of these minutes.

The meeting adjourned at 10:0 a.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant



NORTH CAROLINA GENERAL ASSEMBLY

Legislative Services Office

Drafting Division
300 N. Salisbury Street, Suite 401
Raleigh, NC 27603-5925
Tel. 919-733-6660 Fax 919-715-5459

Gerry Cohen
Director

April 7, 2011

MEMORANDUM

TO: Senate Committee on Rules
FROM: Gerry Cohen, Director of Legislative Drafting
SUBJECT: Legislative Power to Pardon In case of Impeachment

I have been asked whether the General Assembly has the power to pardon in case of impeachment. In my opinion, since the power to pardon in such case has not been assigned by the Constitution to the Governor, it is an inherent power of the General Assembly to be exercised in its discretion.

Article III, Section 5(6) of the Constitution provides in part (emphasis added) that:

"(6) Clemency. The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper ....."

This provision is clear that neither the power to pardon in the case of impeachment nor the power to pardon prior to conviction is an executive power. It has been stated that "Under the American form of government, the pardoning power is neither naturally or necessarily an executive power. It is a power of government inherent in the people, who by constitutional provision may vest it, in whole or in part, in any official, board or department of government they choose." (59 AmJur2d Pardon and Parole § 15), and "Under state constitutions which give power to the executive to pardon only after conviction ... the exercise by the legislature by that power before conviction in no way invades the province of the executive ... all power not specifically granted ... to the Governor may be exercised by the legislature." (id. § 20)

In State v. Bowman, 145 N.C. 452, 59 S.E. 74, (1907). The North Carolina Supreme Court ruled that the General Assembly has the power to pardon prior to conviction. It upheld an 1893 statute (Chapter 461 of the Public Laws of 1895, § § 2 & 5, narrowed by Revisal of 1905 § § 3200 and 3201) that specifically provided a pardon for persons testifying in lynching cases.. The statute provided that, "in investigations concerning lynchings, no person shall be excused from testifying because his answer might incriminate him, but that the witness, when so examined, shall be altogether pardoned of any and all participation in any crime arising under the preceding section" The court said that this statute was "not in violation of Const. art. 3, § 6, conferring the pardoning power on the Governor; such power not being exclusive." In more modern parlance, this type of statute uses the word "immunity", but in fact it is a pre-conviction pardon.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 316  
Committee Substitute Favorable 3/16/11  
Third Edition Engrossed 3/17/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H316-PCS70173-LB-26

Short Title: Modify NCGA Police Powers.

(Public)

Sponsors:

Referred to:

March 14, 2011

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A BILL TO BE ENTITLED  
AN ACT TO PROVIDE THE NORTH CAROLINA GENERAL ASSEMBLY SPECIAL  
POLICE WITH STATEWIDE LAW ENFORCEMENT JURISDICTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-32.2 reads as rewritten:

"§ 120-32.2. General Assembly Special Police.

(a) All sworn members of the General Assembly Special Police employed by the  
Legislative Services Office are special police officers, and have all the powers of policemen of  
cities, within any of the following areas of jurisdiction, while on official duty:

(1) Within those areas of the City of Raleigh and of the unincorporated parts of  
Wake County surrounded by the innermost right-of-way of Interstate 440.

(2) ~~In any part of~~ Throughout the State:

- a. While accompanying a member of the General Assembly who is  
conducting, or traveling to or from, his or her official duties.
- b. While preparing for, or providing security to, a session of either or  
both houses of the General Assembly, or official events directly  
related to that session.
- c. While performing advance work for continuity of government  
planning and performing advance work and providing security for  
the protection of legislative members, staff, and the public for any  
meeting of a study, standing, select, or joint select committee, a  
caucus, or any committee or commission meeting of the General  
Assembly, or any state, regional, or national meetings of legislative  
bodies or organizations representing legislative bodies, and while  
accompanying a member of the General Assembly to or from any  
event listed in this subdivision.
- d. While conducting a criminal investigation of a threat of physical  
violence against the General Assembly, a member or staff of the  
General Assembly, or their immediate family.
- e. While accompanying a member of the General Assembly for the  
purpose of providing executive protection in response to a threat of  
physical violence.



1                   f.       While serving a subpoena issued by the General Assembly or any  
2                               committee of the General Assembly authorized to issue a subpoena  
3                               under the provisions of Chapter 120 of the General Statutes.

4       "(b)   General Assembly Special Police officers may arrest persons outside the areas  
5 described in subsection (a) of this section when the person arrested has committed a criminal  
6 offense within any of the areas, for which the officer could have arrested the person within that  
7 area, and the arrest is made during such person's immediate and continuous flight from that  
8 area.

9       (c)   The General Assembly Special Police officers have the exclusive authority and  
10 responsibility for enforcing the parking rules of the Legislative Services Commission."

11       **SECTION 2.** G.S. 120-19.2(d) reads as rewritten:

12       "(d)   Any witness shall have five days' notice of hearing, unless waived by the witness,  
13 and subpoenas may be served by a member of the General Assembly Special Police, the State  
14 Bureau of Investigation, the State Highway Patrol, or within their respective jurisdiction by any  
15 sheriff or deputy, or any municipal police officer or other law-enforcement officer. Members of  
16 the General Assembly Special Police may serve subpoenas issued under this Chapter anywhere  
17 in the State. In addition, a subpoena may be served in the manner provided for service of  
18 subpoenas under the North Carolina Rules of Civil Procedure."

19       **SECTION 3.** G.S. 120-32.1(b) reads as rewritten:

20       (b)   The Legislative Services Officer shall have posted the rules adopted by the  
21 Legislative Services Commission under the authority of this section in a conspicuous place in  
22 the State Legislative Building and the Legislative Office Building. The Legislative Services  
23 Officer shall have filed a copy of the rules, certified by the chairman of the Legislative Services  
24 Commission, in the office of the Secretary of State and in the office of the Clerk of the Superior  
25 Court of Wake County. When so posted and filed, these rules shall constitute notice to all  
26 persons of the existence and text of the rules. Any person, whether on his own behalf or for  
27 another, or acting as an agent or representative of any person, firm, corporation, partnership or  
28 association, who knowingly violates any of the rules adopted, posted and filed under the  
29 authority of this section is guilty of a Class 1 misdemeanor. Any person, firm, corporation,  
30 partnership or association who combines, confederates, conspires, aids, abets, solicits, urges,  
31 instigates, counsels, advises, encourages or procures another or others to knowingly violate any  
32 of the rules adopted, posted and filed under the authority of this section is guilty of a Class 1  
33 misdemeanor. The President Pro Tempore of the Senate and the Speaker of the House of  
34 Representatives may waive in writing the application of any rule adopted by the Legislative  
35 Services Commission to any elected officer of either house of the General Assembly, and such  
36 a jointly-executed waiver shall be a defense against any prosecution for violation of such rule.  
37 Such a waiver shall extend no longer than the expiration of their then current term of office. A  
38 copy of such waiver shall be delivered to the Chief of the General Assembly Special Police."

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



## HOUSE BILL 316: Modify NCGA Police Powers

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	April 6, 2011
<b>Introduced by:</b>		<b>Prepared by:</b>	Giles S. Perry
<b>Analysis of:</b>	PCS to Third Edition H316-CSLB-26		Committee Counsel

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**SUMMARY:** *House Bill 316 would amend the jurisdiction of the General Assembly Special Police to give the GA police statewide jurisdiction while (1) performing advance work for continuity of government planning, (2) performing advance work or providing security for caucus meetings, (3) conducting a criminal investigation of a threat against the General Assembly, a member or staff of the General Assembly or their immediate family, (4) accompanying a member or staff for the purpose of providing executive protection in response to a threat of physical violence, and (5) serving a subpoena issued by the General Assembly or any committee of the General Assembly authorized to issue a subpoena. The bill also would authorize a waiver of Legislative Services Commission rules in specified circumstances.*

**CURRENT LAW:** G.S. 120-32.2 provides for the territorial and subject matter jurisdiction of the General Assembly Special Police. Under current law, the General Assembly Special Police have the powers of city law enforcement officers within the City of Raleigh and inside the beltline while on official duty. They also have these powers statewide while:

- Accompanying a member who is conducting, or traveling to and from the member's official duties.
- Preparing for or providing security to a session of either or both houses of the General Assembly or official events directly related to that session.
- Performing advance work and providing security for the protection of members, staff and the public for standing and study committees or for state, regional, or national meetings of legislative bodies.
- Accompanying a member to or from committee meetings or meetings of legislative bodies.

**BILL ANALYSIS:** Section 1 of House Bill 316 expands the jurisdiction of the General Assembly Special Police to give them statewide authority while (1) performing advance work for continuity of government planning, (2) performing advance work or providing security for caucus meetings, (3) conducting a criminal investigation of a threat of physical violence against the General Assembly, a member or staff of the General Assembly or their immediate family, (4) accompanying a member or staff for the purpose of providing executive protection in response to a threat of physical violence, and (5) serving a subpoena issued by the General Assembly or any committee of the General Assembly authorized to issue a subpoena.

**Section 2** of the bill is a conforming change to the statute governing the subpoena power of committees of the General Assembly, specifying that a subpoena issued by a committee of the General Assembly may be served anywhere in the State by the General Assembly Special Police.

**Section 3** of the bill amends the statutory provision governing Legislative Services Commission rules governing the State Legislative complex to authorize the President Pro Tempore of the Senate and the

# House PCS 316

Page 2

Speaker of the House of Representatives to waive in writing the application of any rule to any elected officer of either house.

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

*Barbara Riley of the Research Division substantially contributed to this summary.*

*H316-SMRW-55(CSLB-26) v1*



**NORTH CAROLINA GENERAL ASSEMBLY**

**SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT**

**Senator Tom Apodaca, Chair**

Thursday, April 07, 2011

Senator APODACA,

submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 316, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #316) 316      Modify NCGA Police Powers.

Draft Number:                      70173

Sequential Referral:                None

Recommended Referral:            None

Long Title Amended:                No

**TOTAL REPORTED: 1**

## PAGES ATTENDING

COMMITTEE: Rules ROOM: 1027

DATE: 4-7 TIME: 9:30

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
<del>1 Emily Jones</del>	<del>Wilton</del>	<del>P. Berger</del>
2 Breiana Smith	wendell	P. Berger
<del>3 Emily Jones</del>	<del>Mocksville</del>	<del>Brock</del>
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not add names below the grid.

VISITOR REGISTRATION SHEET

~~Senate Finance Rules~~  
Name of Committee

April 7, 2011 AM  
~~February 9, 2011 PM~~  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Drew Saunders	Electric Cities
Eddie Caldwell	NC Sheriffs' Assn.
Andrew Cogle	NC Sheriffs' Assn.
Jan Hendrix	J. Warren & Assoc.
CR Donnell	Tom Fissel
Djnn	Misc
Pauline Pei	Save Our Summers - NC
TR Toward	ACE
John McCall	MF+S
Gene Casady	NC SCA

**MINUTES**

**RULES AND OPERATIONS OF THE SENATE**

**April 27, 2011**

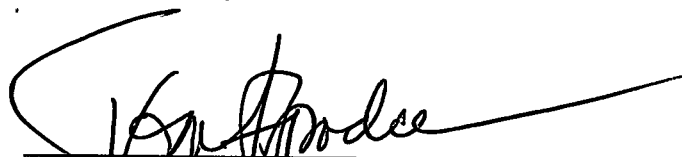
The Committee on Rules and Operations of the Senate met on April 27, 2011 at 9:00 a.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Apodaca presided.

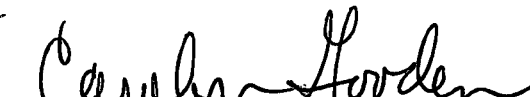
Senator Apodaca introduced the pages and sergeant-at-arms.

**SENATE BILL 322 - ADOPT OFFICIAL STATE SPORT.** Senator Stein moved to adopt the Proposed Committee Substitute for SB 322. Motion carried. Senator Apodaca presented the bill. He gave the history on how this bill originated. Senator Jackson moved for favorable report to the PCS. Motion carried.

**SENATE BILL 324 – ABC LAW/EASTERN BAND OF CHEROKEE INDIANS.** Senator Apodaca explained the bill. Mr. John Williams, Chairman of the ABC Commission, spoke on the bill. Senator Nesbitt moved for a favorable report with a referral to the Judiciary I Committee. Motion carried.

The meeting adjourned at 9:30 a.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 322\*

Short Title: Adopt Official State Sport. (Public)

Sponsors: Senators Apodaca, Tillman, and Nesbitt.

Referred to: Rules and Operations of the Senate.

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO ADOPT STOCK CAR RACING AS THE OFFICIAL SPORT OF NORTH CAROLINA.

Whereas, stock car racing has played a significant role in the history, heritage, and culture of North Carolina; and

Whereas, stock car racing leads the way in the motorsports industry in North Carolina; and

Whereas, the motorsports industry has a six billion dollar economic impact in North Carolina annually and creates over 20,000 direct and indirect jobs; and

Whereas, North Carolina continues to grow and advance the grass roots of the sport of stock car racing with over 30 short tracks located throughout the State hosting over 700 events per year; and

Whereas, North Carolina educates and trains individuals in its University system and Community College system for jobs in stock car racing; and

Whereas, North Carolina is the home of the coveted stock car racing NASCAR Hall of Fame and the NC Auto Racing Hall of Fame; and

Whereas, North Carolina is the home of more than 90 percent of NASCAR Sprint Cup stock car race teams; and

Whereas, the Charlotte Motor Speedway hosts three stock car races annually in the NASCAR Sprint Cup series, more than any Sprint Cup events held annually in any other state, and Charlotte Motor Speedway brings more than one million visitors to North Carolina each year; and

Whereas, North Carolina is the home of "The King," Richard Petty, stock car racing legend Junior Johnson, dubbed "The Last American Hero" by writer Tom Wolfe, and seven-time champion, the late Dale Earnhardt; and

Whereas, North Carolina is the home of stock car racing and North Carolina is committed to the continued growth and popularity of the sport; and

Whereas, stock car racing should be adopted as the State's official sport; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

**"§ 145-33. State sport.**

**Stock car racing is adopted as the official sport of North Carolina."**

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



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 324

Short Title: ABC Law/Eastern Band of Cherokee Indians.

(Public)

Sponsors: Senators Apodaca, Davis; and Hise.

Referred to: Rules and Operations of the Senate.

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS, A  
FEDERALLY RECOGNIZED INDIAN TRIBE AND SOVEREIGN NATION, TO  
RECEIVE SHIPMENTS OF SPIRITUOUS LIQUOR AND FORTIFIED WINES FROM  
THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION AND  
TO AUTHORIZE THE EASTERN BAND OF CHEROKEE INDIANS TO ESTABLISH  
A TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION TO REGULATE  
THE PURCHASE, POSSESSION, CONSUMPTION, SALE, AND DELIVERY OF  
ALCOHOLIC BEVERAGES AT RETAIL.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 18B-203(17) reads as rewritten:

"(17) Provide for the distribution of spirituous liquor to armed forces installations within this State for resale on the ~~installation~~; installation and to the Eastern Band of Cherokee Indians for resale on Indian Country lands within this State under the jurisdiction of the Eastern Band of Cherokee Indians."

**SECTION 2.** Article 1 of Chapter 18B of the General Statutes is amended by adding a new section to read:

**"§ 18B-112. Tribal alcoholic beverage control.**

(a) Authority of Tribal Commission. – In accordance with the provisions of 18 U.S.C. § 1161, the Eastern Band of Cherokee Indians, a federally recognized Indian tribe and sovereign nation, is authorized to establish a tribal alcoholic beverage control commission to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages on any land designated as Indian Country pursuant to 18 U.S.C. § 1151 under the jurisdiction of the Eastern Band of Cherokee Indians. The provisions of this section shall apply only so long as the Eastern Band of Cherokee Indians tribe adopts, by ordinance and in its entirety, this Chapter as its ABC law and complies with the provisions thereof. The tribal commission shall have the same authority as the North Carolina Alcoholic Beverage Control Commission in the issuance of permits to retail establishments, located wholly on Indian Country lands under the jurisdiction of the Eastern Band of Cherokee Indians, and the regulation of the purchase, possession, consumption, sale, and delivery of alcoholic beverages at retail outlets and premises.

(b) Authority of the North Carolina Alcoholic Beverage Control Commission. – The North Carolina Alcoholic Beverage Control Commission shall have the authority to enter into agreements with the tribal commission to provide for the sale, delivery, and distribution of spirituous liquor and fortified wines to the tribal commission.

(c) Failure to Comply With Laws of This State. – If the tribal commission fails to adopt this Chapter by ordinance, fails to amend tribal ABC law to comply with amendments to this



\* 5 3 2 4 - V - 1 \*

1 Chapter within six months of passage of such amendments, or fails to comply with the  
2 provisions of this Chapter as required by 18 U.S.C. § 1161, the North Carolina Alcoholic  
3 Beverage Control Commission is authorized to terminate and prohibit future delivery of any  
4 alcoholic beverages from any person to the tribal commission until the tribal commission  
5 complies with the provisions of this Chapter and 18 U.S.C. § 1161.

6 (d) Conflict of Laws. – If any provision of this section or its application conflicts with  
7 federal law, the conflict of laws shall be resolved in favor of the federal law unless compliance  
8 with the federal law abrogates a right reserved to the State under the Constitution of the United  
9 States."

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





## PAGES ATTENDING

COMMITTEE: Rules ROOM: 1024  
 DATE: 4-27 TIME: 9 AM

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!

Page Name	Hometown	Sponsoring Senator
<sup>1</sup> Blake Scruggs	Chapel Hill	Atwater
<sup>2</sup> Marques McPrail	Goldboro	Pate
<sup>3</sup> Zachary Johnson	Siler City	Atwater
<sup>4</sup> Gabriel Azzato	Southport	Rabon
<sup>5</sup> Tommy Schetz	Southport	Rabon
<sup>6</sup> Erica Gurganus	Jacksonville	Brown
<sup>7</sup> Spencer Goodson	Jacksonville	Brown
<sup>8</sup> Mike Clemens	Sylva	David's
<sup>9</sup>		

Do not add names below the grid.

VISITOR REGISTRATION SHEET

NAME OF COMMITTEE *Rules*

DATE *4-27-11*

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DEANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
<i>Myra</i>	<i>Nolan</i>
<i>Rev. MARK CREECH</i>	<i>CAL</i>
<i>Tim KENT</i>	<i>NC Beer &amp; Wine Wholesalers</i>
<i>John McMullen</i>	<i>MF+S</i>
<i>Paul Gregory</i>	<i>ABCC</i>
<i>John</i>	<i>ABCC</i>
<i>DONALD PARIS</i>	<i>SALISBURY</i>
<i>SUSAN KLUETTZ</i>	<i>Mayor of Salisbury</i>
<i>DAVID HASKINS</i>	<i>EBCL - ABC</i>
<i>Bob Blankenship</i>	<i>EBCL - ABC</i>
<i>John Bode</i>	<u><i>BCS</i></u>



VISITOR REGISTRATION SHEET

NAME OF COMMITTEE

Rules

DATE

4-27

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

8

NAME	FIRM OR AGENCY AND ADDRESS
DAVID BARNES	PS
Scip BRAUER	METLIFE
Nancy Crespo	State Auto Insurance Companies
John McAlisto	NC Chamber
Dean Plunkett	PS
Karen Ray	NOMA
Jack Coyot	NSS
Don Heenan	um
Brad K.	Sen. Steins office
Jim SCOBEN	TS <sup>3</sup>
Guyton Hammond	ETOR



**MINUTES**

**RULES AND OPERATIONS OF THE SENATE**

**May 4, 2011**

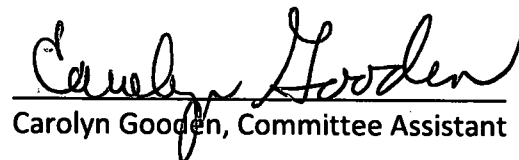
The Committee on Rules and Operations of the Senate met on May 4, 2011 at 9:00 a.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced the pages and sergeant-at-arms.

**HOUSE BILL 197 – SCHOOL CALENDAR FLEXIBILITY/INCLEMENT WEATHER - Senator Brown** moved to adopt the Proposed Committee Substitute for HB 197. Senator Hise and Representative Frye explained the bill. Senator Nesbitt sent forward an amendment and moved for adoption. Motion carried. Senator Garrou moved to give the PCS a favorable report as amended. Motion carried. This is Attachment A of these minutes.

The meeting adjourned at 10:00 a.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 197  
PROPOSED SENATE COMMITTEE SUBSTITUTE H197-CSTC-14 [v.8]

5/3/2011 7:10:21 PM

Short Title: School Calendar Flexibility/Inclement Weather.

(Public)

Sponsors:

Referred to:

March 1, 2011

A BILL TO BE ENTITLED

AN ACT TO GIVE CERTAIN LOCAL BOARDS OF EDUCATION ADDITIONAL FLEXIBILITY WITH REGARD TO INSTRUCTIONAL TIME LOST DUE TO INCLEMENT WEATHER OR OTHER EMERGENCY SITUATIONS.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 115C-84.2(a)(1) reads as rewritten:

"(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall include the following:

- (1) A minimum of either 180 days and-or 1,000 hours of instruction covering at least nine calendar months. The local board shall designate when the 180 instructional days or 1,000 hours shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

If, due to inclement weather, a local board of education complies with this subdivision by scheduling 1,000 hours of instruction on less than 180 days, the local school administrative unit is deemed to have a minimum of 180 days of instruction, teachers employed for a 10-month term are deemed to have been employed for 180 instructional days, and all other employees shall be compensated as if they had worked their regularly scheduled hours for 180 instructional days."

**SECTION 1.(b)** This section applies only to the following:

- (1) Local school administrative units that missed more than 16 instructional days during the 2010-2011 school year due to inclement weather.
- (2) Local school administrative units that missed instructional days at one or more schools during the 2010-2011 school year due to the partial or complete destruction of a school building and that are located within a



1 county with a population of less than 25,000 which has been declared by the  
2 President of the United States to be a disaster area due to severe storms,  
3 tornadoes, and flooding occurring on April 16, 2011.

4 (3) Public schools that missed instructional days during the 2010-2011 school  
5 year due to the partial or complete destruction of the school and that are  
6 located in local school administrative units in counties declared by the  
7 President of the United States to be a disaster area due to severe storms,  
8 tornadoes, and flooding occurring on April 16, 2011.

9 (4) Public schools that missed instructional days during the 2010-2011 school  
10 year due to a state of emergency and that are located in local school  
11 administrative units in a coastal county with a population of more than  
12 175,000 where a state of emergency was declared by the county  
13 commissioners in March 2011.

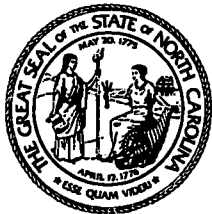
14 **SECTION 2.(a)** G.S. 115C-238.29F(d)(1) reads as rewritten:

15 "(1) The school shall provide instruction each year for ~~at least 180 days a~~  
16 minimum of either 180 days or 1,000 hours of instruction covering at least  
17 nine calendar months."

18 **SECTION 2.(b)** This section applies only to charter schools that missed more than  
19 16 instructional days during the 2010-2011 school year due to inclement weather.

20 **SECTION 3.** This act is effective when it becomes law and applies only to the  
21 2010-2011 school year.





## HOUSE BILL 197: School Calendar Flexibility/Inclement Weather

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	May 4, 2011
<b>Introduced by:</b>	Reps. Frye, Jordan, Rapp, West	<b>Prepared by:</b>	Kara McCraw
<b>Analysis of:</b>	PCS to First Edition H197-CSTC-14		Committee Counsel

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**SUMMARY:** *The Proposed Committee Substitute (PCS) for HB 197 would permit local school administrative units (LEAs) or charter schools that missed instructional days due to inclement weather or other emergency situations in the 2010-2011 school year and meet certain criteria to modify their school calendar to include either 180 days or 1,000 hours of instruction.*

*The PCS would create 3 categories of LEAs and charter schools that would be eligible for the waiver:*

- 1. LEAs and charter schools that missed more than 16 instructional days due to inclement weather.*
- 2. LEAs that missed instructional days at one or more schools during the 2010-2011 school year due to damage to a school building in a county with a population of less than 25,000 declared a federal disaster area as a result of April's tornadoes.*
- 3. Public schools that missed instructional days due to damage to a school building in an LEA located in a county declared a federal disaster area as a result of April's tornadoes.*
- 4. Public schools that missed instructional days due to a state of emergency in an LEA located in a county with a population of more than 175,000 where the county commissioners declared a state of emergency in March 2011.*

**CURRENT LAW:** G.S. 115C-84.2 (a)(1) requires that a school calendar must include a minimum of 180 days and 1000 hours of instruction covering at least nine calendar months. The school calendar must also include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

G.S. 115C-238.29F(d)(1) requires charter schools to provide instruction each year for at least 180 days.

**BILL ANALYSIS:** HB 197 would give flexibility to make up instructional days missed due to inclement weather or other emergency situations during the 2010-2011 school year under the following criteria:

1. The LEA or charter school missed more than 16 instructional days due to inclement weather.
2. The LEA missed instructional days at one or more schools due to damage to the school building in a county with a population of less than 25,000 declared a federal disaster area as a result of the April tornadoes.
3. The public school missed instructional days due to partial or complete damage of the school building, for schools located in an LEA within a county declared a federal disaster area as a result of the April tornadoes.
4. The public school missed instructional days due to a state of emergency in March 2011 declared by the county in which the LEA is located, in a county with a population of more than 175,000.

Local school administrative units (LEAs) that meet the bill's criteria would be authorized to schedule either 180 days or 1,000 hours of instruction rather than 180 days and 1,000 hours of instruction.

# House PCS 197

Page 2

Qualifying local boards that schedule 1,000 hours of instruction on less than 180 days are deemed to have 180 days of instruction and employees must be compensated accordingly.

Qualifying charter schools would be exempt from the requirement to provide 180 days of instruction for the 2010-2011 school year, but instead would be required to provide a minimum of 180 days or 1,000 hours of instruction covering at least nine calendar months.

**EFFECTIVE DATE:** The act would become effective when it becomes law and would apply only to the 2010-2011 school year.

**BACKGROUND:** During the 2010-2011 school year, LEAs in the following counties have reported missing more than 16 instructional days of school due to inclement weather: Alleghany, Ashe, Avery, Madison, Mitchell, Watauga, and Yancey.

As a result of the tornadoes which occurred on April 16, 2011, public schools were damaged in Cumberland County (Pine Forest High School and Ben Martin Elementary School) and in Greene County (Greene County Middle School). Both Cumberland and Greene County have been declared federal disaster areas as a result of the April tornadoes and storm damage.

In March 2011, a wildfire which began at Camp LeJeune resulted in the declaration of a state of emergency by Onslow County and missed instructional days for Dixon Elementary, Dixon Middle and Dixon High School.

The General Assembly has modified the school calendar law requirements in four prior school years in response to inclement weather events:

S.L. 1999-463es – Exception to allow either 180 days or 1,000 hours for local school administrative units in counties declared disaster areas for Hurricane Floyd for the 1999-2000 school year.

S.L. 2003-08 – Exception to allow make up of a maximum of three instructional days missed due to unusual and extraordinary inclement weather that it would cause undue hardship to parents, children, and teachers to make up by adding instructional hours to previously scheduled instructional days, if 1,000 hours requirement was still met. Applied state-wide for 2002-2003 school year.

S.L. 2005-48 – Exception to allow either 180 days or 1,000 hours for local school administrative units in counties declared disaster areas for Hurricane Frances or Ivan, or who missed more than 13 days of school due to those hurricanes for the 2004-2005 school year.

S.L. 2010-10 – Exception to allow either 180 days or 1,000 hours for local school administrative units and charter schools that missed more than 20 days due to inclement weather for the 2009-2010 school year.

*H197-SMTC-20(CSTC-14) v3*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Thursday, May 05, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

H.B.	197	School Calendar Flexibility/Inclement Weather.
		Draft Number: 11202
		Sequential Referral: None
		Recommended Referral: None
		Long Title Amended: No

**TOTAL REPORTED: 1**

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Name of Committee

RULES

Date

5/4/11

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Dean Plunkett	PS.
Sandy Sands	W.M.
Andrew Cagle	NC Sheriffs Assn.
Mark Freny	BCBSNC
J GOODMAN	NC CHAMBER
Eddie Caldwell	NC Sheriff's Assn.
Fred Baggett	Smith Mason Lthwood
Chs Byers	NCMS
Amy Whited	NCMS
Michelle Frazier	MF+S
Ken Melton	K.M.A.

VISITOR REGISTRATION SHEET

NAME OF COMMITTEE

RULES

DATE

5/4/11

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Erin Schuettpeby	LNCH
DAVE Skiffon	CAGC
Gene Caysby	NCSCA
Don Harmon	The XONA
Frank Gray	NCRLA
Paul Stone	NCRLA
Marge Forman	NCAE
Brian Lewis	NCAE
Linda GUNTER	NCAE
John McMullen	NFOS
Drew Saunders	Electricities
Matt Farrell	NCSTBA

VISITOR REGISTRATION SHEET

NAME OF COMMITTEE

RULES

DATE

5/4/11

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Cady Thomas	NCAR
Gouise O'Keefe	Save Our Summers - NC
Matthew Eisinger	Smith Anderson
Tom KENT	NC Beer & Wine Wholesalers
Rev. Mark Creech	CAL
A. Shull	NCMS
Mike Olson	in state a.p. co
Emelyn Hawthorne	PENC
Chip Killian	Nelson Mullins
Heather Barnett	Williams Muller
Phil O'Donoghue	PFFPNC



**MINUTES**

**RULES AND OPERATIONS OF THE SENATE**

**May 18, 2011**

The Committee on Rules and Operations of the Senate met on May 18, 2011 at 9:00 a.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced the pages and sergeant-at-arms.

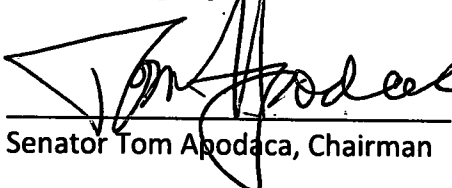
**Senate Bill 129 – STATE MINERAL IS GOLD** – Senator Brown, bill sponsor, explained the bill. Senator Jackson moved for a favorable report. Motion carried.

**HOUSE BILL 98 – BREWERIES TO SELL MALT BEVERAGES ON PREMISES** - Representative McGrady, bill sponsor, explained this bill. Senator Brock sent forward an amendment and moved for adoption. Motion carried. Senator Garrou moved for a favorable report as amended. Motion carried.

**SENATE BILL 713 – SPIRITUOUS LIQUOR SALES/TASTINGS-DISTILLERIES** – Senator Nesbitt, bill sponsor, moved to adopt the Proposed Committee Substitute. Motion carried. Senator Nesbitt explained the PCS. Senator Kinnaird moved for a favorable report to the Proposed Committee Substitute. Motion carried.

**SENATE BILL 727 – NO DUES CHECKOFF FOR SCHOOL** – Senator Hise, bill sponsor, explained the bill. Mr. Brian Lewis, North Carolina Association of Educators, spoke against the bill and said his organization did not force anyone to join. Ms. Pam Deardorff, Executive Director of the North Carolina Retired School Personnel, also spoke against the bill. Senator Mansfield sent forward an amendment. After much discussion, Chairman Apodaca called for a hand vote. The amendment was opposed by a 7 to 4 vote. The motion failed. The bill passed by a 7 to 4 hand vote. Motion carried

The meeting adjourned at 10:00 a.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant



**Senate Rules and Operations of the Senate Committee**  
**Wednesday, May 18, 2011, 9:00 AM**  
**1027**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

<b>SB 129</b>	<b>State Mineral is Gold</b>	<b>Senator Brown</b>
<b>98</b>		
<b>HB <del>82</del></b>	<b>Breweries to Sell Malt Beverages on Premises</b>	<b>Rep. McGrady</b>
<b>SB 713</b>	<b>Spirituos Liquor Sales/Tastings-Distilleries</b>	<b>Senator Nesbitt</b>
<b>SB 727</b>	<b>No Dues Checkoff for School</b>	<b>Senator Hise</b>

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 129

Short Title: State Mineral Is Gold.

(Public)

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Sponsors: Senator Brown.

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Referred to: Rules and Operations of the Senate.

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February 28, 2011

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8

A BILL TO BE ENTITLED  
AN ACT TO MAKE GOLD (AURUM) THE STATE MINERAL.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 145 of the General Statutes is amended by adding a new section to read:

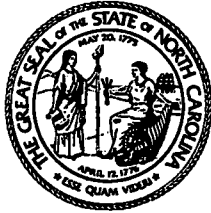
**"§ 145-34. State mineral.**

**Gold (Aurum) is adopted as the official State mineral of the State of North Carolina."**

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



\* S 1 2 9 - V - 1 \*



## SENATE BILL 129: State Mineral Is Gold

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	May 18, 2011
<b>Introduced by:</b>	Sen. Brown	<b>Prepared by:</b>	Denise Adams
<b>Analysis of:</b>	First Edition		Committee Staff

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**SUMMARY:** *Senate Bill 129 adopts gold as the official mineral of North Carolina.*

**CURRENT LAW:** Currently, North Carolina does not have an official state mineral. Other such symbols, however, have been adopted by the State as official designations, including the emerald as the official State precious stone of North Carolina (S.L. 1973-136) and granite as the official State rock of North Carolina (S.L. 1979-906).

**BILL ANALYSIS:** Senate Bill 129 would amend Chapter 145 of the General Statutes, State Symbols and Other Official Adoptions, to designate gold (aurum) as the official mineral of the State of North Carolina.

**EFFECTIVE DATE:** Effective when it becomes law.

**BACKGROUND:** Aurum is the Latin word for gold.

*S129-SMTB-23(e1) v2*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 98\*  
Committee Substitute Favorable 4/20/11

Short Title: Breweries to Sell Malt Beverages on Premises.

(Public)

Sponsors:

Referred to:

February 16, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW ALCOHOLIC BEVERAGE PERMITTEES WHO HAVE BEEN  
3 ISSUED BREWERY PERMITS TO SELL MALT BEVERAGES BREWED AT THE  
4 BREWERY ON THE PREMISES OF THE BREWERY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 18B-1001(1) reads as rewritten:

7 "(1) On-Premises Malt Beverage Permit. – An on-premises malt beverage permit  
8 authorizes the retail sale of malt beverages for consumption on the premises  
9 and the retail sale of malt beverages in the manufacturer's original container  
10 for consumption off the premises. It also authorizes the holder of the permit  
11 to ship malt beverages in closed containers to individual purchasers inside  
12 and outside the State. The permit may be issued for any of the following:

- 13 a. Restaurants;  
14 b. Hotels;  
15 c. Eating establishments;  
16 d. Food businesses;  
17 e. Retail businesses;  
18 f. Private clubs;  
19 g. Convention centers;  
20 h. Community theatres; ~~theaters;~~  
21 i. Breweries as authorized by G.S. 18B-1104(7).

22 ~~The permit may also be issued to certain breweries as authorized by~~  
23 ~~G.S. 18B-1104(7)."~~

24 SECTION 2. G.S. 18B-1104(7) reads as rewritten:

25 "§ 18B-1104. Authorization of brewery permit.

26 The holder of a brewery permit may:

- 27 (1) Manufacture malt ~~beverages;~~ beverages.  
28 (2) Purchase malt, hops and other ingredients used in the manufacture of malt  
29 ~~beverages;~~ beverages.  
30 (3) Sell, deliver and ship malt beverages in closed containers to wholesalers  
31 licensed under this Chapter as authorized by the ABC laws, except that malt  
32 beverages may be sold to exporters and nonresident wholesalers only when  
33 the purchase is not for resale in this ~~State;~~ State.  
34 (4) Receive malt beverages manufactured by the permittee in some other state  
35 for transshipment to dealers in other ~~states;~~ states.  
36 (5) Furnish or sell marketable malt beverage products, or packages which do not  
37 conform to the manufacturer's marketing standards, if State taxes have been



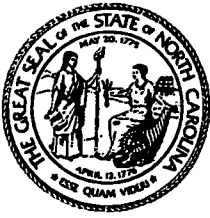
1 or will be paid, to its employees for the use of the employees or their  
2 families and guests in this ~~State~~; State.

3 (6) Give its products to its employees and guests for consumption on its  
4 ~~premises~~; premises.

5 (7) In areas where the sale is ~~legal~~, of any type of alcoholic beverage is  
6 authorized by law, sell the brewery's malt beverages at the brewery upon  
7 receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a  
8 malt beverage wholesaler permit to sell, deliver, and ship at wholesale only  
9 malt beverages manufactured by the brewery. The authorization of this  
10 subdivision applies to a brewery that sells, to consumers at the brewery, to  
11 wholesalers, to retailers, and to exporters, fewer than 25,000 barrels, as  
12 defined in G.S. 81A-9, of malt beverages produced by it per year. A brewery  
13 not exceeding the sales quantity limitations in this subdivision may also sell  
14 the malt beverages manufactured by the brewery at not more than three other  
15 locations in the ~~State~~ State, where the sale is legal, upon obtaining the  
16 appropriate permits under G.S. 18B-1001. A brewery operating any  
17 additional retail location pursuant to this subdivision shall also offer for sale  
18 at that location a reasonable selection of competitive malt beverage products.

19 A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale  
20 under the ABC laws."

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



# HOUSE BILL 98: Breweries to Sell Malt Beverages on Premises

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. McGrady  
**Analysis of:** Second Edition

**Date:** May 3, 2011  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *House Bill 98 would amend the ABC law pertaining to breweries, allowing small breweries to obtain an on-premises malt beverage permit for sale of the brewery's malt beverages at the brewery, provided the brewery is located in an area where the sale of some type of alcoholic beverage is legal. The brewery may also obtain permits to sell its products at up to three additional locations in the State where the sale of malt beverages is legal.*

**CURRENT LAW:** G.S. 18B-1104 provides that, in areas where the sale of malt beverages is legal, a brewery may obtain an on-premises malt beverage permit to sell its malt beverages at the brewery. A brewery may also sell its malt beverages at up to three other locations in the State upon obtaining the appropriate permits. The authorization for a brewery to obtain an on-premises malt beverage permit applies only to breweries that sell fewer than 25,000 barrels of malt beverages produced by it per year.

Under G.S. 18B-1001 an on-premises malt beverage permit may be issued to a brewery that meets the location and sales quantity requirements set out in G.S. 18B-1104. An on-premises malt beverage permit issued to a brewery authorizes the retail sale of malt beverages for consumption on the premises and the retail sale of malt beverages in the manufacturer's original container for consumption off the premises.

**BILL ANALYSIS:** House Bill 98 provides that a brewery located in an area where the sale of any type of alcoholic beverage is authorized by law may obtain an on-premises malt beverage permit for sale of the brewery's product at the brewery. The provision applies to breweries that sell fewer than 25,000 barrels of malt beverages produced by it per year. The bill makes a conforming change to the law pertaining to on-premises malt beverage permits to add authorized breweries to the list of entities that qualify for the permit. The bill specifies that the three retail locations operated by a brewery must be in areas where the sale of malt beverages is legal.

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

H98-SMRW-102(e2) v1

*Brenda Carter of the Research Division substantially contributed to this summary*



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 98\*

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

H98-ARN-8 [v.1]


Page 1 of 1

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

Date May 18, 2011

Senator Brock

- 1 moves to amend the bill on page 2, line 5, by deleting the phrase "In areas" and substituting the
- 2 phrase "In an area".
- 3
- 4
- 5
- 6

SIGNED   
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 713  
PROPOSED COMMITTEE SUBSTITUTE S713-CSMA-24 [v.9]

5/17/2011 6:48:12 PM

Short Title: Spirituous Liquor Sales - Distilleries.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW DISTILLERIES IN NORTH CAROLINA TO SELL, TO PATRONS WHO HAVE PARTICIPATED IN A TOUR OF A DISTILLERY, AT RETAIL SPIRITUOUS LIQUOR THAT HAS BEEN DISTILLED AT THE LICENSED DISTILLERY FOR THE PRICE SET BY THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL COMMISSION OF THAT PARTICULAR BRAND OF SPIRIT TO INCLUDE ALL APPLICABLE EXCISE AND SALES TAXES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1105 reads as rewritten:

"§ 18B-1105. Authorization of distillery permit.

(a) Authorized Acts. – The holder of a distillery permit may:

- (1) Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous ~~liquor;~~ liquor.
- (2) Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or ~~nations;~~ nations.
- (3) Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.
- (4) In an area where the establishment of an ABC store has been approved pursuant to G.S. 18B-602(g) and at those distilleries which hold tours of the distillery, and its full operation, as a regular course of business, sell spirituous liquor distilled at the distillery, in closed containers, to patrons who participate in tours of the distillery, at retail on the premises of the distillery for consumption off the premises. Spirituous liquor sold at a distillery pursuant to this subdivision shall be sold at the price set by the Commission for that brand of spirit to include all applicable excise and sales taxes. All excise and sales taxes shall be remitted by the permittee to the Department of Revenue. Retail sales of spirituous liquor pursuant to this subdivision shall be subject to the provisions of G.S. 18B-802. Sales of spirituous liquor to a tour group on a pre-arranged tour of the distillery may occur between the hours of 9 A.M. and 9 P.M. on any day the sale of spirituous liquor at an ABC store is authorized by G.S. 18B-802. Sales of spirituous liquor to patrons who participate in walk-in tours shall only occur



\* 5 7 1 3 - C S M A - 2 4 - V - 9 \*



1 between the hours of 2 P.M. and 8 P.M. on any day the sale of spirituous  
2 liquor is authorized at an ABC store by G.S. 18B-802. With respect to  
3 spirituous liquor, a permittee may sell no more than two liters per product  
4 label produced on site by the distillery in a single business day to any patron  
5 participating in a tour. In addition to the two liters per product label  
6 produced on site by the distillery, as authorized by this subdivision, a  
7 permittee may sell up to four 50 ml bottles of spirituous liquor in a single  
8 business day to any patron participating in a tour. The Commission shall  
9 adopt rules regulating the retail sale of spirituous liquor at distilleries.

10 (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating  
11 Permit pursuant to Title 27, Code of Federal Regulations, Part 201.64 through 201.65 or Part  
12 201.131 through 201.138 shall obtain a fuel alcohol permit before manufacturing any alcohol.  
13 The permit shall entitle the permittee to perform only those acts allowed by the Federal  
14 Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State  
15 permit."

16 **SECTION 2.** This act becomes effective October 1, 2011.



## SENATE BILL 713: Spirituous Liquor Sales/Tastings-Distilleries

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	May 18, 2011
<b>Introduced by:</b>	Sen. Nesbitt	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition S713-CSMA-24		Committee Counsel

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**SUMMARY:** *The Proposed Committee Substitute (PCS) for Senate Bill 713 would allow the holder of a distillery permit to sell spirituous liquor distilled at the distillery to patrons who participate in tours under certain conditions.*

**CURRENT LAW:** Under current law, the holder of a distillery permit may:

- Manufacture, purchase, import, possess and transport ingredients and equipment used in the distillation of spirituous liquor.
- Sell, deliver and ship spirituous liquor in closed containers at wholesale to exporters and local boards within the State, and, subject to the laws of other jurisdictions, at wholesale or retail to private or public agencies or establishments of other states or nations.
- Transport into or out of the distillery the maximum amount of liquor allowed under federal law, if the transportation is related to the distilling process.

**BILL ANALYSIS:** The PCS would provide that the holder of a distillery permit may, in an area where he establishment of an ABC store has been approved, sell spirituous liquor distilled at the distillery to patrons who participate in tours of the distillery. The liquor must be sold in closed containers and at retail on the premises of the distillery for consumption off the premises. The following other provisions would also apply:

- Spirituous liquor sold at a distillery must be sold at the price set by the Commission for that brand of spirit and must include all applicable excise and sales taxes.
- Sales of spirituous liquor to a tour group on a pre-arranged tour may occur between 9 A.M. and 9 P.M. on any day the sale of spirituous liquor at an ABC store is authorized.
- Sales of spirituous liquor to patrons who participate in walk in tours shall only occur between the hours of 2 P.M. and 8 P.M. on any day the sale of spirituous liquor is authorized.
- A permittee may sell no more than two liters per product label produced on site by the distillery in a single business day to any patron participating in a tour.
- A permittee may also sell up to four 50 ml bottles of spirituous liquor in a single business day to any patron participating in a tour.
- The Commission must adopt rules regulating the retail sale of spirituous liquor at distilleries.

**EFFECTIVE DATE:** The act would become effective October 1, 2011.

S713-SMRN-48(CSMA-24) v2

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 727

Short Title: No Dues Checkoff for School Employees.

(Public)

Sponsors: Senators Hise; Brock, Davis, East, Goolsby, Hunt, and Soucek.

Referred to: Education/Higher Education.

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE DUES CHECKOFF OPTION FOR ACTIVE AND  
RETIRED PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143B-426.40A(g) reads as rewritten:

"(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed. – An employee of the State or any of its political ~~subdivisions, subdivisions other than local boards of education,~~ institutions, departments, bureaus, agencies or commissions, or any of its ~~local boards of education or~~ community colleges, who is a member of a domiciled employees' association that has at least 2,000 members, 500 of whom are employees of the ~~State, State or a political subdivision of the State, or public school employees, State other than a local board of education,~~ may authorize, in writing, the periodic deduction each payroll period from the employee's salary or wages a designated lump sum to be paid to the employees' association. A political subdivision may also allow periodic deductions for a domiciled employees' association that does not otherwise meet the minimum membership requirements set forth in this paragraph.

~~An employee of any local board of education who is a member of a domiciled employees' association that has at least 40,000 members, the majority of whom are public school teachers, may authorize in writing the periodic deduction each payroll period from the employee's salary or wages a designated lump sum or sums to be paid for dues and voluntary contributions for the employees' association.~~

An authorization under this subsection shall remain in effect until revoked by the employee. A plan of payroll deductions pursuant to this subsection for employees of the State and other association members shall become void if the employees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit. This subsection does not apply to county or municipal governments or any local governmental unit, except for local boards of education."

**SECTION 2.** G.S. 135-18.8 reads as rewritten:

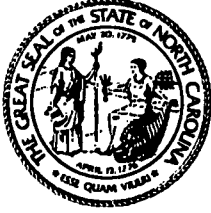
"§ 135-18.8. Deduction for payments to certain employees' or retirees' associations allowed.

Any beneficiary who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the ~~State or public school employees,~~ State may authorize, in writing, the periodic deduction from the beneficiary's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the beneficiary. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association



1 engages in collective bargaining with the State, any political subdivision of the State, or any  
2 local school administrative unit."

3 **SECTION 3.** This act becomes effective July 1, 2011.



## SENATE BILL 727: No Dues Checkoff for School Employees

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	May 4, 2011
<b>Introduced by:</b>	Sen. Hise	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition S727-CSRN-13		Committee Counsel

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**SUMMARY:** *Senate Bill 727 would eliminate the dues checkoff option for active and retired public school employees. The Proposed Committee Substitute makes one conforming change (strikes through language on page 1, line 27, to clarify that the subsection does not apply to local boards of education).*

**CURRENT LAW:** – An employee of the State or any of its political subdivisions, institutions, departments, bureaus, agencies or commissions, or any of its local boards of education or community colleges, who is a member of a employees' association that has at least 2,000 members, 500 of whom are employees of the State, a political subdivision of the State, or public school employees, may authorize, in writing, the periodic deduction each payroll period from the employee's salary or wages a designated lump sum to be paid to the employees' association. A political subdivision may also allow periodic deductions for a domiciled employees' association that does not otherwise meet the minimum membership requirements.

An employee of any local board of education who is a member of a domiciled employees' association that has at least 40,000 members, the majority of whom are public school teachers, may authorize in writing the periodic deduction each payroll period from the employee's salary or wages a designated lump sum or sums to be paid for dues and voluntary contributions for the employees' association.

Article 1 of Chapter 135 of the General Statutes addresses the retirement system for teachers and state employees. A beneficiary (person receiving a pension, annuity, retirement allowance, or other benefit under the State Retirement System) who is a member of an employees' or retirees' association that has at least 200 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction of a designated lump sum to be paid to the employees' or retirees' association. The lump sum would be paid to the employees' or retirees' association.

**BILL ANALYSIS:** Senate Bill 727 would eliminate the dues checkoff option for active and retired public school employees.

**EFFECTIVE DATE:** The act becomes effective July 1, 2011.

S727-SMRN-39(CSRN-13) v1

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

DATE \_\_\_\_\_

S. B. No. 727

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE

(to be filled in by  
Principal Clerk)

Rep.)

Mansfield

Sen.)

1 moves to amend the bill on page 1, line 5-27

2 ( ) WHICH CHANGES THE TITLE

3 by \_\_\_\_\_

4 deleting those lines and substituting the  
5 following:

6 "Section 1, G.S. 143B-426.40A (g) is  
7 repealed

8 and on page 1, line 28 through page  
9 2 line 4, by rewriting those lines to  
10 read:

11 "Section 2, G.S. 135-18.8 is  
12 repealed".  
13  
14  
15  
16  
17  
18  
19

SIGNED

Mansfield

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

RULES

VISITOR REGISTRATION SHEET

Senate Finance Committee

May 18, 2011

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
Allison Waller	N M P S
Chris Agner	DD Admin
David Starling	NCDST
Chuck Stone	SEAK
Tom BEAN	EDF
Ken Melton	K. M. A.
Julia Adams	The Arc of NC
Lesley Cates	UNC
Wendy Kelly	Policy Group
Ahly	Progressive
Rick Zechini	Progress Energy

**VISITOR REGISTRATION SHEET**

Rules

Senate ~~Finance~~ Committee

May 18, 2011

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM**

NAME	FIRM OR AGENCY AND ADDRESS
Cynthia Barnett	Christian Science Committee on Publications (CNC)
Sean Holmes	NCSBA
Mitch Leonard	SEANC
PRIGE WORSHAM	LEGISLATIVE REPORTING SERVICE
Gretlyn Hawthorne	EHGR
Bo Heath	MWC
DANIEL BANN	TROUTMAN SANDERS



## MINUTES

### RULES AND OPERATIONS OF THE SENATE

June 8, 2011

The Committee on Rules and Operations of the Senate met on June 8, 2011 at 8:00 a.m. in room 1027 of the Legislative Building. Eleven members of the committee were present. Senator Apodaca presided.

He then introduced staff, pages, and sergeant-at-arms.

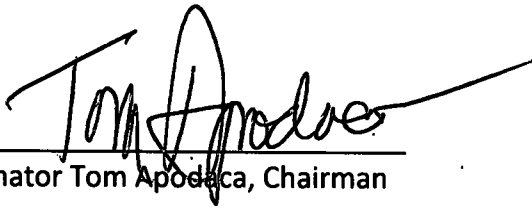
**SENATE BILL 224 - Professional Sports Agents/College Athletes** - Senator Dannelly, bill sponsor, presented the bill and then asked if Mr. Rodney Mattocks, Secretary of State's Office could speak on the bill. Mr. Mattocks was in favor of the bill. Senator Brock sent forth an amendment and moved for adoption. Motion carried. Senator Stein moved to roll the amendment into a Proposed Committee Substitute and give a favorable report. Motion Carried.

**SENATE BILL 755 – Ed. Employees Ass'n./Equal Act** - Senator Tucker, bill sponsor, explained the bill. Senator Garrou moved for a favorable report. Motion carried.

**SENATE BILL 762 – Landowner Protection Act** - Senator Jackson sent forward a Proposed Committee Substitute and moved for adoption. Motion carried. Senator Brock moved for a favorable report to the PCS.

**SENATE BILL 686 - 2011 President Pro Tem Appointments Bill** – Senator Apodaca explained the Proposed Committee Substitute and sent forward an amendment to the PCS. Senator moved to adopt the amendment and the motion carried. Senator Brock moved for a favorable report as amended to the PCS. Motion carried.

The meeting adjourned at 8:30 a.m.



Handwritten signature of Tom Apodaca in black ink, featuring a large, stylized initial 'T' and a long horizontal flourish extending to the right.

\_\_\_\_\_  
Senator Tom Apodaca, Chairman



Handwritten signature of Carolyn Gooden in black ink, with a cursive style and a long horizontal flourish extending to the right.

\_\_\_\_\_  
Carolyn Gooden, Committee Assistant

# Rules and Operations of the Senate Committee

Wednesday June 8, 2011

Welcome and Opening Remarks

Introduction of Pages

HB 762	Landowner Protection Act	Rep. McComas
SB 224	Professional Sports Agents/College Athletes	Sen. Dannelly
SB 686	2011 President Pro Tem Appointments	Sen. Apodaca
SB 755	Ed. Employees Ass'n./Equal Access Act.	Sen. Tucker

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 224  
PROPOSED COMMITTEE SUBSTITUTE S224-CSRN-23 [v.5]

6/7/2011 10:03:14 PM

Short Title: Professional Sports Agents/College Athletes.

(Public)

Sponsors:

Referred to:

March 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE OUT OF STATE APPLICANTS AS ATHLETE AGENTS TO FILE A NORTH CAROLINA APPLICATION; TO CHANGE BONDING REQUIREMENTS FOR ATHLETE AGENTS; TO STRENGTHEN EXISTING ATHLETE SIGNATURE REQUIREMENTS BY REQUIRING NOTARIZED SIGNATURES ON STUDENT-ATHLETE CONTRACTS; TO CLARIFY RECORD KEEPING REQUIREMENTS; TO EXPAND REQUIREMENTS FOR RECORDS ACCESS FOR THE SECRETARY OF STATE; TO REQUIRE ATHLETE AGENTS TO PROVIDE SIGNED CONTRACTS FOR STUDENT-ATHLETES TO THE SECRETARY OF STATE WITHIN A CERTAIN TIME PERIOD; TO REQUIRE ATHLETE AGENTS TO PROVIDE THE SECRETARY OF STATE WITH NOTARIZED CONTRACTS REGARDING STUDENT-ATHLETES BY A PERSON OTHER THAN AN EDUCATIONAL INSTITUTION EMPLOYEE, FAMILY MEMBER, OR INDIVIDUAL ACTING SOLELY ON BEHALF OF A PROFESSIONAL SPORTS TEAM OR ORGANIZATION WHERE THE CONTRACTING PERSON MAY HAVE AN EXPECTATION OF BENEFIT; TO CLARIFY THE PROHIBITION ON ATHLETE AGENTS PROVIDING THINGS OF VALUE TO STUDENT-ATHLETES BEFORE THE STUDENT-ATHLETES HAVE SIGNED CONTRACTS WITH THE ATHLETE AGENTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 9 of Chapter 78C reads as rewritten:

"Article 9.

Uniform Athlete Agents Act.

**§ 78C-85. Title.**

This Article may be cited as the "Uniform Athlete Agents Act".

...

**§ 78C-89. Registration as athlete agent; form; requirements.**

(a) An individual seeking registration as an athlete agent shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. The application must be in the name of an individual and, ~~except as otherwise provided in subsection (b) of this section,~~ and signed or otherwise authenticated by the applicant under penalty of perjury and must state or contain the following:

...



~~(b) An individual who has submitted an application for registration or licensure as an athlete agent in another state or who holds a certificate of registration or licensure as an athlete agent in another state may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (a) of this section. The Secretary of State shall accept the application and the certificate from the other state as an application for registration in this State if the application to the other state satisfied all of the following criteria:~~

- ~~(1) Was submitted in the other state within six months immediately preceding the submission of the application in this State and the applicant certifies that the information contained in the application is current.~~
- ~~(2) Contains information substantially similar to or more comprehensive than that required in an application submitted in this State.~~
- ~~(3) Was signed by the applicant under penalty of perjury.~~

An applicant for registration as an athlete agent in North Carolina pursuant to G.S 78C-88 shall submit with the application a satisfactory cash bond or proof of establishment of a trust account in that amount with a licensed and insured bank or savings institution located in the State of North Carolina. The bond or trust account shall be in favor of the State of North Carolina. If a trust account is established, the applicant shall include with the application two copies of the formal notification by the depository that the trust account is established. Any bond shall be delivered by the Secretary of State to the Treasurer of the State of North Carolina to be maintained in an interest bearing special fund. The amount of the cash bond or trust account shall be:

- (1) Fifty thousand dollars (\$50,000) to be submitted with the applicant's initial application for registration as an athlete agent in North Carolina;
- (2) An additional twenty-five thousand dollars (\$25,000) to be submitted with the applicant's first renewal application for registration as an athlete agent in North Carolina; and
- (3) An additional twenty-five thousand dollars (\$25,000) to be submitted with the applicant's second renewal applicant for registration as an athlete agent in North Carolina.

At no time shall the total cash bond or trust account principal exceed \$100,000 for an individual athlete agent.

(b1) The cash bond shall be returnable to the athlete agent six months after the athlete agent ceases to be a registered North Carolina athlete agent or the Secretary of State has denied the application for registration or renewal, unless the Secretary of State has been notified of pending legal action against the agent by an educational institution pursuant to G.S. 78C-100. The bond or trust account shall be available to satisfy any award or judgment to the educational institution arising from the athlete agent's violation of this Article. The Treasurer of the State of North Carolina or the bank or savings institution holding the trust account shall release the principal and interest accrued on the cash bond or trust account only upon receipt by of a court order directing release or upon certification by the Secretary of State that no notice of pending legal action has been received pursuant to this section from an educational institution.

(c) An application filed under this section is a "public record" within the meaning of Chapter 132 of the General Statutes.

...

**§ 78C-94. Required form of contract.**

(a) An agency contract must be in a record, signed or otherwise authenticated by the parties. The student-athlete's signature shall be acknowledged before a notary public.

....

...

**§ 78C-97. Required records; waiver of attorney-client privilege.**

(a) An athlete agent shall retain the following records for a period of five years:

- 1 (1) The name and address of each individual represented by the athlete agent.
- 2 (2) Any agency contract entered into by the athlete agent.
- 3 (3) Any ~~direct cost~~ expenses incurred by the athlete agent, or any person
- 4 acting at the direction of the athlete agent, in the recruitment or solicitation
- 5 of a student-athlete to enter into an agency contract.
- 6 (4) A list of all other athlete agents affiliated with the athlete agent, employees
- 7 of the athlete agent, and all persons acting at the direction of the athlete
- 8 agent in the recruitment or solicitation of student-athletes to enter into
- 9 agency contracts.
- 10 (5) A list of all telephone numbers, including records for each number showing
- 11 all incoming and outgoing communications, used by the athlete agent, or any
- 12 person acting at the direction of the athlete agent, in the recruitment or
- 13 solicitation of a student-athlete to enter into an agency contract.
- 14 (6) All check books, bank statements, canceled checks, and credit card
- 15 statements for all accounts used by the athlete agent, or any person acting at
- 16 the direction of the athlete agent, in the recruitment or solicitation of a
- 17 student-athlete to enter into an agency contract.
- 18 (7) Originals or copies of all written communications sent by the athlete agent,
- 19 or any person acting at the direction of the athlete agent, to a student-athlete
- 20 or to any other person to recruit or solicit a student-athlete to enter into an
- 21 agency contract.
- 22 (8) A record of all communications between an athlete agent, or any person
- 23 acting at the direction of the athlete agent, with a student-athlete or any
- 24 person for the purpose of recruiting or soliciting a student-athlete to enter
- 25 into an agency contract.
- 26 (9) Any other record the Secretary of State by rule prescribes.

27 For purposes of subsections (a)(7) and (8), "communication" includes all oral  
28 communication and written communication. Written communications include handwritten  
29 correspondence, printed correspondence, mailings, text messages, and electronic  
30 communications such as emails and communications through social and professional  
31 networking sites.

32 (b) Records required to be retained by subsection (a) of this section are open to  
33 inspection by the Secretary of State during normal business hours. An athlete agent shall  
34 deliver within ten (10) business days any records required to be retained by subsection (a) of  
35 this section if requested by the Secretary of State or the Secretary's designee.

36 (c) Where a student-athlete enters into an agency contract regulated under this Article,  
37 the student-athlete will be deemed to waive the attorney-client privilege with respect to records  
38 required to be retained by subsection (a) of this section, subject to G.S. 78C-94(f).

39 (d) Within five business days after entering into an agency contract with an individual  
40 who was a student-athlete at an educational institution located in this State, the athlete agent  
41 shall provide a copy of the executed agency contract to the Secretary of State. This requirement  
42 shall only apply to former student-athletes entering into their first agency contract.

43 (e) Within five business days after being contacted by a person, who may have an  
44 expectation of direct gain or profit or reimbursement of expenses from the agency contract,  
45 regarding a student-athlete at an educational institution located in this State, the athlete agent  
46 shall notify the Secretary of State in writing. The notification shall state the person's name, the  
47 person's contact information, the identity of the student-athlete, the method of communication,  
48 and the date of the communication. This requirement shall not apply if the person contacting  
49 the athlete agent is the student-athlete, spouse, parent, sibling, or guardian of the  
50 student-athlete, or employed by the educational institution. Information provided to the

1 Secretary of State pursuant to this subsection is protected by G.S. 132-1.2(1) from disclosure as  
2 a public record.

3 **§ 78C-98. Prohibited ~~conduct~~ conduct of athlete agents.**

4 ...

5 (b) An athlete agent shall not intentionally:

- 6 (1) Initiate contact with a student-athlete unless the athlete agent is registered  
7 under this Article.  
8 (2) Refuse or fail to retain or permit inspection of the records required to be  
9 retained by G.S. 78C-97.  
10 (3) Fail to register as required by G.S. 78C-88.  
11 (4) Provide materially false or misleading information in an application for  
12 registration or renewal of registration.  
13 (5) Predate or postdate an agency contract.  
14 (6) Fail to notify a student-athlete before the student-athlete signs or otherwise  
15 authenticates an agency contract for a particular sport that the signing or  
16 authentication shall make the student-athlete ineligible to participate as a  
17 student-athlete in that sport.  
18 (7) Furnish anything of value to a student-athlete before the student-athlete  
19 enters into an agency contract.

20 **§ 78C-98.1. Prohibited conduct of non-athlete agents.**

21 (a) A person shall not:

- 22 (1) Furnish anything of value to a student-athlete or a student-athlete's spouse,  
23 parent, sibling, or guardian before the student-athlete enters into an agency  
24 contract; and  
25 (2) Advise, influence, guide, recommend, encourage, oppose, or discourage the  
26 student-athlete's selection of a specific athlete agent with the expectation of  
27 profit, compensation, salary, gratuity, or benefit in any form.

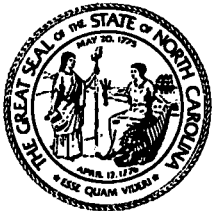
28 (b) Nothing in this section shall prevent a spouse, parent, sibling, grandparent, or  
29 guardian of a student-athlete or an educational institution which the student-athlete attends  
30 from furnishing anything of value to the student-athlete.

31 ...

32 **§ 78C-101. Administrative penalty.**

33 The Secretary of State may assess a civil penalty against ~~an athlete agent~~ any person in an  
34 amount not to exceed less than ten thousand dollars (\$10,000) nor more than twenty-five  
35 thousand dollars (\$25,000) for a each violation of the provisions of this Article. The Secretary  
36 may also seek injunctive relief or any other relief available by law to enforce the provisions of  
37 this Article."

38 **SECTION 2.** This act becomes effective December 1, 2011, and applies to  
39 contracts entered into or offenses committed on or after that date.



## SENATE BILL 224: Professional Sports Agents/College Athletes

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 7, 2011
<b>Introduced by:</b>	Sen. Dannelly	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition S224-CSR-23		Committee Counsel

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**SUMMARY:** *The Proposed Committee Substitute (PCS) for Senate Bill 224 amends the Uniform Athlete Agents Act. The PCS rewrites the First Edition of the bill which only dealt with unlawful contact with a student athlete by a professional sports team or agent.*

**CURRENT LAW:** Article 9 of Chapter 78C of the General Statutes is the Uniform Athlete Agents Act. It governs agency contracts (An agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract). The act governs registration of athlete agents, suspension or revocation of registration, the required form of contract for agency contracts, required retention of records, prohibited conduct, and penalties (civil penalties, criminal penalties, and administrative remedies). The Secretary of State's Office is responsible for administering the Article, including adopting rules.

**BILL ANALYSIS:** The PCS for Senate Bill 224 does all of the following:

- Deletes provisions in G.S. 78C-89(b), so that out-of-state applicants must file a North Carolina application to become an athlete agent.
- Provides that applicants for registration as an athlete agent must submit with the application a cash bond or proof of a trust account with a licensed and insured bank or savings institution in North Carolina. The bond or trust account must be available to satisfy any award or judgment to the educational institution arising from the athlete agent's violation of this Article. The bond must be delivered to the State Treasurer and held in an interest-bearing special fund. The amount of the bond or trust account must be:
  - \$50,000 to be submitted with the applicant's initial application for registration as an athlete agent in North Carolina.
  - An additional \$25,000 to be submitted with the applicant's first renewal application for registration as an athlete agent.
  - An additional \$25,000 to be submitted with the applicant's second renewal application.
    - At no time shall the total cash bond or trust account principal exceed \$100,000 for an individual athlete agent.
- Provides that the cash bond is returnable to the athlete agent 6 months after the athlete agent ceases to be a registered North Carolina athlete agent or the Secretary of State has denied the application for registration or renewal, unless the Secretary of State has been notified of pending legal action against the agent by an educational institution pursuant to G.S. 78C-100.
- Amends G.S. 78C-97 (setting out requirements for an agency contract) to provide that the student athlete's signature must be acknowledged before a notary public.
- Requires an athlete agent to retain that the following information for 5 years:



# Senate PCS 224

Page 2

- Records involving expenses incurred by the athlete agent or any person acting at the direction of the athlete agent in recruiting or soliciting a student athlete.
- A list of all other athlete agents affiliated with the athlete agent, employees of the athlete agent, and all persons acting at the direction of the athlete agent.
- A list of all telephone numbers, including records for each number showing all incoming and outgoing communications, used by the athlete agent, or any person acting at the direction of the athlete agent
- Check books, bank statements, canceled checks, and credit card statements for all accounts used by the athlete agent, or any person acting at the direction of the athlete agent.
- Originals or copies of all written communications (defined term) sent by the athlete agent, or any person acting at the direction of the athlete agent, to a student athlete or to any other person to recruit or solicit a student athlete.
- A record of all communications between an athlete agent, or any person acting at the direction of the athlete agent, with a student athlete or any person for the purpose of recruiting or soliciting a student athlete.
- Any other record the Secretary of State prescribes by rule.
- Provides that an athlete agent, upon the request of the Secretary of State or her designee, must deliver information which must be maintained by the athlete agent within 10 business days.
- For former student-athletes entering into their first agency contract (if the person was a student-athlete in an educational institution of the State)—The athlete agent must provide a copy of the executed contract to the Secretary of State within 5 business days after entering into the contract.
- Within five business days after being contacted by a person, who may have an expectation of direct gain or profit or reimbursement of expenses from the agency contract, regarding a student athlete at an educational institution located in this State, the athlete agent shall notify the Secretary of State in writing. The notification must state the person's (1) name, (2) contact information, (3) the identity of the student athlete, (4) the method of communication, and (5) the date of the communication.
  - This does not apply if the person contacting the athlete agent is the student athlete, spouse, parent, sibling, or guardian of the student athlete, or employed by the educational institution.
  - Information in this section is prohibited from disclosure as a public record.
- Prohibits the athlete agent from furnishing anything of value to a student athlete before the student athlete enters into an agency contract.
- Creates a new section which provides that a person must not (1) furnish anything of value to a student athlete or a student athlete's spouse, parent, sibling, or guardian before the student athlete enters into an agency contract and (2) advise, influence, guide, recommend, encourage, oppose, or discourage the student athlete's selection of a specific athlete agent with the expectation of profit, compensation, salary, gratuity, or benefit in any form.
  - This section does not prohibit any of the following from giving anything of value to the student athlete: (1) a spouse, (2) parent, (3) sibling, (4) grandparent, (5) guardian, or (6) educational institution which the student-athlete attends.

# Senate PCS 224

Page 3

- **Administrative Penalty-** Allows the Secretary of State to assess a civil penalty against any person in an amount not less than \$10,000 nor more than \$25,000 for each violation of this Article. Also allows the Secretary to seek injunctive relief to enforce the Article.

**EFFECTIVE DATE:** This act becomes effective December 1, 2011, and applies to contracts entered into or offenses committed on or after that date.

*S224-SMRN-62(CSRN-23) v6*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. \_\_\_\_\_

DATE June 8, 2011

S. B. No. 224-CSRN-23 [45]

Amendment No. 1

COMMITTEE SUBSTITUTE X

(to be filled in by  
Principal Clerk)

Rep.) Brock  
Sen.)

1 moves to amend the bill on page 4, line 23

2 ( ) WHICH CHANGES THE TITLE

3 by inserting between the words "parent, sibling,"  
4 the word "child."

5 \_\_\_\_\_

6 \_\_\_\_\_

7 \_\_\_\_\_

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19 \_\_\_\_\_

SIGNED [Signature]

ADOPTED X FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 755

Short Title: Ed. Employees Ass'n./Equal Access Act. (Public)

Sponsors: Senators Tucker; Apodaca, Daniel, East, Goolsby, Newton, Rouzer, Rucho, and Tillman;

Referred to: Rules and Operations of the Senate.

April 20, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE EQUAL ACCESS ACT.  
3 The General Assembly of North Carolina enacts:  
4 SECTION 1. This act shall be known as the Equal Access Act.  
5 SECTION 2. Article 22 of Subchapter V of Chapter 115C of the General Statutes  
6 is amended by adding a new Part to read:  
7 "Part 9. Equal Access Act.  
8 "§ 115C-335.9. Equal access for all education employee associations.  
9 (a) As used in this section, the following definitions apply:  
10 (1) "Education employee association" includes teacher associations, teacher  
11 organizations, and classified education employees' associations.  
12 (2) "School" means a charter school or a school operated by a local school  
13 administrative unit, the State Board of Education, or a State agency.  
14 (b) It is the intent of the General Assembly that all education employee associations  
15 have equal access to employees at schools and that schools not favor nor endorse an education  
16 employee association; therefore, neither a local school administrative unit nor a school shall do  
17 any of the following:  
18 (1) Grant access to employees' physical or electronic mailboxes to an education  
19 employee association unless it gives such access to all education employee  
20 associations operating in the local school administrative unit.  
21 (2) Permit an education employee association to attend new teacher or employee  
22 orientations to recruit members unless it permits all education employee  
23 associations operating in the local school administrative unit to attend.  
24 (3) Give an education employee association preferential treatment through  
25 procedures, policies, or any other means.  
26 (4) Endorse one education employee association over another.  
27 (5) Refer to days or breaks in a school calendar by the name of an employee  
28 education association.  
29 (c) A school shall not discourage or prohibit an employee from joining an organization  
30 or showing preferences toward any educational association."  
31 SECTION 3. This act is effective when it becomes law and applies beginning with  
32 the 2011-2012 school year.





# SENATE BILL 755: Ed. Employees Ass'n./Equal Access Act

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Sen. Tucker  
**Analysis of:** First Edition

**Date:** June 7, 2011  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *Makes changes to the law concerning education employee associations.*

**CURRENT LAW:** Article 22 of Chapter 115C of the General Statutes contains general regulations pertaining to education.

## **BILL ANALYSIS:**

Senate Bill 755 adds a new Part 9 to Article 22 of Chapter 115C, entitled the Equal Access Act.

This new Part includes new G.S 115C-335.9, which provides that schools not favor nor endorse an education employee association.

Specifically, this section provides that neither a local school administrative unit nor a school shall do any of the following:

- Grant access to employees' physical or electronic mailboxes to an education employee association unless it gives such access to all education employee associations operating in the local school administrative unit.
- Permit an education employee association to attend new teacher or employee orientations to recruit members unless it permits all education employee associations operating in the local school administrative unit to attend.
- Give an education employee association preferential treatment through procedures, policies, or any other means.
- Endorse one education employee association over another.
- Refer to days or breaks in a school calendar by the name of an employee education association.

The section also provides that a school shall not discourage or prohibit an employee from joining an organization or showing preferences toward any educational association."

**EFFECTIVE DATE:** This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

S755-SMRW-148(e1) v3

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 762\*  
Committee Substitute Favorable 5/18/11  
Third Edition Engrossed 5/24/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H762-CSRW-53 [v.1]

6/6/2011 12:37:30 PM

Short Title: Landowner Protection Act.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO PROTECT LANDOWNER RIGHTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-159.6 reads as rewritten:

"§ 14-159.6. Trespass for purposes of hunting, etc., without written consent a misdemeanor.

(a) Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another upon which notices, signs or posters prohibiting hunting, fishing or trapping have been placed in accordance with the provisions of G.S. 14-159.7, or upon which "posted" notices have been placed that has been posted in accordance with the provisions of G.S. 14-159.7, to hunt, fish or trap without the written consent permission of the owner landowner, lessee, or his agent shall be guilty of a Class 2 misdemeanor. Provided, further, that no arrests under authority of this subsection shall be made without the consent of the owner or owners of said land, or their duly authorized agents in the following counties: Halifax and Warren. Written permission shall be carried on one's person, signed by the landowner, lessee, or agent, and dated within the last 12 months. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, sheriff or deputy sheriff, or other law enforcement officer with general subject matter jurisdiction. A person shall have written permission for purposes of this section if a landowner, lessee, or agent has granted permission to a club to hunt, fish, or trap on the land and the person is carrying both a current membership card demonstrating the person's membership in the club and a copy of written permission granted to the club that complies with the requirements of this section.

(b) Any person who willfully goes on the land of another upon which notices, signs, or posters prohibiting raking or removing pine needles or pine straw have been placed in accordance with the provisions of G.S. 14-159.7, or upon which "posted" notices have been placed that has been posted in accordance with the provisions of G.S. 14-159.7, G.S. 14-159.7(1), to rake or remove pine needles or pine straw without the written consent of the owner or his agent shall be guilty of a Class 1 misdemeanor.

(c) It is an affirmative defense to a prosecution under subsection (a) or (b) of this section that the person had in fact obtained prior permission of the owner, lessee, or agent as



1 required by those subsections, but did not have on his or her person valid written permission at  
2 the time of citation or arrest."

3 SECTION 2. G.S. 14-159.7 reads as rewritten:

4 "§ 14-159.7. Regulations as to posting of property.

5 For purposes of posting property under G.S. 14-159.7, the owner or lessee of the property  
6 may use either of the following methods:

7 (1) The owner or lessee of the property may place notices, signs, or posters on  
8 the property. The notices, signs or posters described in G.S. 14-159.6 shall  
9 measure not less than 120 square inches and shall be conspicuously posted  
10 on private lands not more than 200 yards apart close to and along the  
11 boundaries. At least one such notice, sign, or poster shall be posted on each  
12 side of such land, and one at each corner thereof, provided that said corner  
13 can be reasonably ascertained. For the purpose of prohibiting fishing, or the  
14 taking of fish by any means, in any stream, lake, or pond, it shall only be  
15 necessary that the signs, notices, or posters be posted along the stream or  
16 shoreline of a pond or lake at intervals of not more than 200 yards apart.

17 (2) The owner or lessee of the property may place identifying purple paint  
18 marks on trees or posts around the area to be posted. Each paint mark shall  
19 be a vertical line of at least eight inches in length and the bottom of the mark  
20 shall be no less than three feet nor more than five feet from the base of the  
21 tree or post. The paint marks shall be placed no more than 100 yards apart  
22 and shall be readily visible to any person approaching the property. For the  
23 purpose of prohibiting fishing, or the taking of fish by any means, in any  
24 stream, lake, or pond, it shall only be necessary that the paint marks be  
25 placed along the stream or shoreline of a pond or lake at intervals of not  
26 more than 100 yards apart."

27 SECTION 3. G.S. 14-159.10 reads as rewritten:

28 "§ 14-159.10. Enforcement of Article by peace officers; wildlife protectors authorized to  
29 execute process.~~Article.~~

30 This Article may be enforced by ~~deputy sheriffs~~ sheriffs or deputy sheriffs, law  
31 enforcement officers of the Wildlife Resources Commission, and other peace officers with  
32 general subject matter jurisdiction. ~~Law enforcement officers of the North Carolina Wildlife~~  
33 ~~Resources Commission may execute process issued by the court for violations of this Article."~~

34 SECTION 4. This act becomes effective October 1, 2011, and applies to offenses  
35 committed on or after that date.



# HOUSE BILL 762: Landowner Protection Act

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Reps. McComas, LaRoque, Collins  
**Analysis of:** PCS to Third Edition  
H762-CSRW-53

**Date:** June 6, 2011  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *House Bill 762 (proposed committee substitute) would regulate hunting and fishing on private land and provide an additional method to post land to prohibit hunting.*

**CURRENT LAW:** Pursuant to G.S. 14-159.6, trespassing for purposes of hunting, upon posted property, without written consent, is a Class 2 misdemeanor.<sup>1</sup> A posted property is defined as "registered property that is posted in substantial compliance with G.S. 113-282(d)," which includes detailed registration and signage requirements. In order for property to be properly posted and legally binding, the property must be registered with the Wildlife Resources Commission (WRC); state that hunting or fishing, or both, are prohibited without an entry permit; and set out the name and address and, if feasible, the telephone number of the person to contact for an entry permit.

## **BILL ANALYSIS:**

**Section 1** amends G.S. 14-159.6 to provide that the written permission necessary to hunt on land that has been posted or take fish from private ponds, must be signed and dated within 12 months. Hunters or hunting club members would be required to carry the written permission on their person while on the property, and displayed upon request to law enforcement officers of the WRC, sheriffs and deputy sheriffs, and law enforcement officers with general subject matter jurisdiction. Hunting club members would also need to carry a certification from their hunt club designating that they are a member. The section provides an affirmative defense to a prosecution if the person had in fact obtained prior permission of the owner, lessee, or agent as required, but did not have on his or her person valid written permission at the time of citation or arrest.

**Section 2** amends G.S. 14-159.7 to provide an alternative method of posting property by using purple paint marks every 100 yards to mark the boundary of the property. For the purposes of prohibiting fishing, the purple marks need only be made along the stream or shoreline.

**Section 3** amends G.S. 14-159.10 to provide that the Article may be enforced by wildlife officers as well as by sheriffs, deputy sheriffs, and other peace officers with general subject matter jurisdiction.

**EFFECTIVE DATE:** This act would become effective October 1, 2011 and apply to offenses committed on or after that date.

*Barbara Riley and Mariah Matheson of the Research Division substantially contributed to this summary.*

H762-SMRW-143(CSRW-53) v1

<sup>1</sup> Assuming no prior convictions, a Class 2 misdemeanor is subject to 1 to 30 days community punishment and fine of up to \$1,000.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 686  
PROPOSED COMMITTEE SUBSTITUTE S686-PCS35260-LG-14

Short Title: 2011 President Pro Tem Appointments Bill.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE  
RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** Effective October 1, 2011, Pierre Crawford of Gaston County is appointed to the African-American Heritage Commission for a term expiring on September 30, 2014.

**SECTION 2.** Jack Ingle of Forsyth County and Brad Smith of Mecklenburg County are appointed to the Alarm Systems Licensing Board for terms expiring on June 30, 2014.

**SECTION 3.** Raymond Dancy of Alamance County and James Jennings of Alexander County are appointed to the Board of Public Telecommunications Commissioners of the North Carolina Agency for Public Telecommunication for terms expiring on June 30, 2013.

**SECTION 4.** Michelle Shaw of Harnett County and Noah H. Huffstetler III of Wake County are appointed to the Board of Trustees for the State Health Plan for Teachers and State Employees for terms expiring on June 30, 2013.

**SECTION 5.** Sam Barefoot of Davidson County and Dan Boyce of Wake County are appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for terms expiring on June 30, 2013.

**SECTION 6.** Tony Withers of Wake County, Pat Long of Wake County, Wendell H. Murphy Sr. of Duplin County, Cassius Williams of Pitt County, and Steve Stroud of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2015.

**SECTION 7.** Maureen Hardin of Wake County and Julie Cardwell of Rockingham County are appointed to the Child Care Commission for terms expiring on June 30, 2013.

**SECTION 8.** Frank Edwards of Wake County is appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for a term expiring on June 30, 2014.



\* S 6 8 6 - P C S 3 5 2 6 0 - L G - 1 4 \*

1           **SECTION 9.** Charles T. Johnson of Wake County, John Hawkins of Durham  
2 County, James Festerman of Wake County, and Robert Myrick of Brunswick County are  
3 appointed to the North Carolina Criminal Justice Education and Training Standards  
4 Commission for terms expiring on June 30, 2014.

5           **SECTION 10.** Effective October 1, 2011, J. Anderson Little of Orange County is  
6 appointed to the Dispute Resolution Commission for a term expiring on September 30, 2014.

7           **SECTION 11.** Effective September 1, 2011, Cathy Cloninger of Gaston County,  
8 Beth Williams of Catawba County, and Lynne Harlan of Jackson County are appointed to the  
9 Domestic Violence Commission for terms expiring on August 31, 2013.

10           **SECTION 12.** David Rose of Nash County is appointed to the North Carolina's  
11 Eastern Region Development Commission for a term expiring on June 30, 2015.

12           **SECTION 13.** Effective December 1, 2011, James Upham of New Hanover  
13 County is appointed to the Economic Investment Committee for a term expiring on November  
14 30, 2013.

15           **SECTION 14.** The Honorable Daniel Soucek of Watauga County is appointed to  
16 the Education Commission of the States for a term expiring on June 30, 2013.

17           **SECTION 15.** Steve Keen of Wayne County, Marvin Cavanaugh of Forsyth  
18 County, and Steve Tedder of Stokes County are appointed to the Environmental Management  
19 Commission for terms expiring on June 30, 2013.

20           **SECTION 16.** Effective October 1, 2011, Gregory Greene of Davidson County is  
21 appointed to the Judicial Standards Commission for a term expiring on September 30, 2017.

22           **SECTION 17.** Helen Brann of Person County, the Honorable Eric Mansfield of  
23 Cumberland County, the Honorable James Forrester of Gaston County, Dr. David Y. Huang of  
24 Orange County, Glenn Martin of Rockingham County, and Shonda Corbett of Wake County  
25 are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms  
26 expiring on June 30, 2013.

27           **SECTION 18.** Terry Henderson of Wake County is appointed to the North  
28 Carolina Appraisal Board for a term expiring on June 30, 2014.

29           **SECTION 19.** Dr. Milan DiGiulio of Wake County is appointed to the North  
30 Carolina Board of Athletic Trainer Examiners for a term expiring on July 31, 2014.

31           **SECTION 20.** Christie Nicholson of Pitt County is appointed to the North Carolina  
32 Board of Dietetics/Nutrition for a term expiring on June 30, 2014.

33           **SECTION 21.** Effective September 1, 2011, Dorenda Stilwell of Davidson County  
34 is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on  
35 August 31, 2014.

36           **SECTION 22.** Effective January 1, 2011, Reverend John Shields of Alamance  
37 County is appointed to the North Carolina Board of Funeral Service for a term expiring on  
38 December 31, 2014.

39           **SECTION 23.** Josh Herman of Alamance County and Sharon Thompson of  
40 Johnston County are appointed to the North Carolina Board of Massage and Bodywork  
41 Therapy for terms expiring on June 30, 2014.

42           **SECTION 24.** Christine Woodhouse of Wake County is appointed to the North  
43 Carolina Board of Science and Technology for a term expiring on June 30, 2013.

44           **SECTION 25.** Effective October 1, 2011, Dale Beatty of Iredell County and Cindy  
45 Boyd of Wake County are appointed to the North Carolina Brain Injury Advisory Council for  
46 terms expiring on September 30, 2015.

47           **SECTION 26.** George Howard of Wake County, Sam Stroud of Wilkes County,  
48 and Kiernan Shannahan of Wake County are appointed to the North Carolina Clean Water  
49 Management Trust Fund Board of Trustees for terms expiring on July 1, 2015.

1           **SECTION 27.** Effective January 1, 2011, Jim Gusler of Caswell County is  
2 appointed to the North Carolina Emergency Medical Services Advisory Council for a term  
3 expiring on December 31, 2015.

4           **SECTION 28.** John Lewis of Carteret County, David Stover of Wake County,  
5 W. T. "Billy" Lamm of Wilson County, Chris Humphrey of Lenoir County, and Hugh Webster  
6 of Alamance County are appointed to the Board of Directors of the North Carolina Global  
7 TransPark Authority for terms expiring on June 30, 2015.

8           **SECTION 29.** Fred J. Herndon of Durham County is appointed to the North  
9 Carolina Home Inspector Licensure Board for a term expiring on July 1, 2015.

10          **SECTION 30.** Stancil Barnes of Edgecombe County is appointed to the North  
11 Carolina Housing Finance Agency Board of Directors for a term expiring on June 30, 2015.

12          **SECTION 31.** Effective September 1, 2011, Ted Alexander of Cleveland County,  
13 Tom E. Smith of Wake County, Sallie Surface of Hertford County, Jeanne C. Tedrow of Wake  
14 County, and Rita Thuot of Gaston County are appointed to the North Carolina Housing  
15 Partnership for terms expiring on August 31, 2014.

16          **SECTION 32.** Effective October 1, 2011, Charles Allen of Cumberland County is  
17 appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on  
18 September 30, 2014.

19          **SECTION 33.** Reid Hobbs of New Hanover County and Edwin Stott of  
20 Rockingham County are appointed to the North Carolina Board for Licensing of Soil Scientists  
21 for terms expiring on June 30, 2014.

22          **SECTION 34.** Effective September 1, 2011, Barry Dodson of Rockingham County  
23 and the Honorable Fern Shubert of Union County are appointed to the North Carolina State  
24 Lottery Commission for terms expiring on August 31, 2016.

25          **SECTION 35.** Carol Carstarphen of Gaston County and Becki Gray of Wake  
26 County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms  
27 expiring on June 30, 2013.

28          **SECTION 36.** Monroe Pannell of Catawba County and Lisa Wolfe of Alamance  
29 County are appointed to the North Carolina Parks and Recreation Authority for terms expiring  
30 on July 1, 2014.

31          **SECTION 37.** Effective January 1, 2011, Martha Jane Eblen of Buncombe County  
32 is appointed to the Board of Directors of the North Carolina Partnership for Children, Inc., for a  
33 term expiring on December 31, 2014.

34          **SECTION 38.** Jennifer Facciolini of Sampson County and Tim Barnsbeck of  
35 Burke County are appointed to the North Carolina Principal Fellows Commission for terms  
36 expiring on June 30, 2015.

37          **SECTION 39.** Lyndalyn Kakadelis of Mecklenburg County is appointed to the  
38 North Carolina Teaching Fellows Commission for a term expiring on June 30, 2015.

39          **SECTION 40.** Duane Long of Wake County and Franklin Rouse of Brunswick  
40 County are appointed to the North Carolina Railroad Board of Directors for terms expiring on  
41 June 30, 2015.

42          **SECTION 41.** Cindy Chandler of Mecklenburg County is appointed to the North  
43 Carolina Real Estate Commission for a term expiring on June 30, 2014.

44          **SECTION 42.** Steven Harper of Wake County is appointed to the North Carolina  
45 Recreational Therapy Licensure Board for a term expiring on June 30, 2014.

46          **SECTION 43.** Kory Swanson of Wake County is appointed to the North Carolina  
47 Seafood Industrial Park Authority for a term expiring on June 30, 2013.

48          **SECTION 44.** Mark Nichols of Johnston County is appointed to the North  
49 Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June  
50 30, 2013.

1           **SECTION 45.** William M. Smith of Wake County is appointed to the North  
2 Carolina State Building Commission for a term expiring on June 30, 2014. *Roberson*

3           **SECTION 46.** Paul G. Brooks of Wake County is appointed to the North Carolina  
4 State Commission of Indian Affairs for a term expiring on June 30, 2013.

5           **SECTION 47.** Michael Lee of New Hanover County is appointed to the North  
6 Carolina State Ports Authority for a term expiring on June 30, 2013.

7           **SECTION 48.** Effective January 14, 2011, Michael Powell of Brunswick County is  
8 appointed to the North Carolina Turnpike Authority Board for a term expiring on January 14,  
9 2015.

10          **SECTION 49.** Dr. Dwight E. Cochran of Wake County is appointed to the North  
11 Carolina Veterinary Medical Board for a term expiring on June 30, 2016.

12          **SECTION 50.** Wendell Murphy, Jr., of Duplin County, Thomas Berry of Guilford  
13 County, Mark Craig of Guilford County, and Doc Thurston of Mecklenburg County are  
14 appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30,  
15 2013.

16          **SECTION 51.** Hood Richardson of Beaufort County, Bob Steinburg of Chowan  
17 County, and Owen Etheridge of Currituck County are appointed to the North Carolina's  
18 Northeast Commission for terms expiring on June 30, 2013.

19          **SECTION 52.** Bob Graham of Surry County and Edward Cobbler of Guilford  
20 County are appointed to the Private Protective Services Board for terms expiring on June 30,  
21 2014.

22          **SECTION 53.** Gilliam Nicholson of Wake County and Graham Atkinson of Surry  
23 County are appointed to the Public Officers and Employees Liability Insurance Commission for  
24 terms expiring on June 30, 2015.

25          **SECTION 54.** Barry Wickre of Dare County and Peregrine White of Dare County  
26 are appointed to the Roanoke Island Commission for terms expiring on June 30, 2013.

27          **SECTION 55.** Margaret Currin of Wake County, Addison Bell of Mecklenburg  
28 County, Pete Osborne of Guilford County, Bob Rippy of New Hanover County, and Stephanie  
29 Simpson of Wake County are appointed to the Rules Review Commission for terms expiring on  
30 June 30, 2013.

31          **SECTION 56.** Charles DeVane of Bladen County and Mary Louise Childs of  
32 Brunswick County are appointed to the Southeastern North Carolina Regional Economic  
33 Development Commission for terms expiring on June 30, 2015.

34          **SECTION 57.** Les Merritt of Wake County is appointed to the State Ethics  
35 Commission for a term expiring on June 30, 2015.

36          **SECTION 58.** Bill Peaslee of Wake County is appointed to the Property Tax  
37 Commission for a term expiring on June 30, 2015.

38          **SECTION 59.** Rick Martinez of Orange County is appointed to the Board of  
39 Trustees of the University of North Carolina Center for Public Television for a term expiring  
40 on June 30, 2013.

41          **SECTION 60.** Billy Yow of Guilford County and Thomas Whitehead of New  
42 Hanover County are appointed to the Well Contractors Certification Commission for terms  
43 expiring on June 30, 2014.

44          **SECTION 61.** Bert Hall of Wilkes County, Randy Banks of Yancey County, and  
45 Mark Meadows of Jackson County are appointed to the Western North Carolina Regional  
46 Economic Development Commission for terms expiring on June 30, 2015.

47          **SECTION 62.** Unless otherwise provided, this act becomes effective July 1, 2011.



**NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 686**

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

S686-ALG-82 [v.6]

Page 1 of 2

Comm. Sub. [YES]  
Amends Title [NO]  
S686-PCS35260-LG-14

Date \_\_\_\_\_, 2011

Senator \_\_\_\_\_

1 moves to amend the bill on page 1, line 19, by deleting the "H." and substituting "T."; and

2  
3 on page 2, lines 10-11, by rewriting those lines to read:

4 "SECTION 12. David Rose of Nash County and Lige Daughtridg of Nash  
5 County are appointed to the North Carolina's Eastern Region Development Commission for  
6 terms expiring on June 30, 2015."; and

7  
8 on page 2, lines 16-17, by adding the following new section between those lines to read:

9 "SECTION 14.1. Anna Boyle Roberts of Wake County is appointed to the e-NC  
10 Authority for a term expiring on June 30, 2014."; and

11  
12 on page 2, line 24, by adding before the word "and" the phrase "Dr. Mike Patil of Orange  
13 County,"; and

14  
15 on page 2, lines 27-28, by rewriting those lines to read:

16 "SECTION 18. Terry Henderson of Wake County and Susan Black of Alamance  
17 County are appointed to the North Carolina Appraisal Board for terms expiring on June 30,  
18 2014."; and

19  
20 on page 2, line 49, by adding after that line the following new section to read:

21 "SECTION 26.1. Ray Rice of Alamance County and Kenneth D. Stafford of  
22 Alamance County are appointed to the North Carolina Code Officials Qualification Board for  
23 terms expiring on July 1, 2015."; and

24  
25 on page 3, lines 22-24, by rewriting those lines to read:

26 "SECTION 34.(a) Effective February 15, 2011, Barry Dodson of Rockingham  
27 County is appointed to the North Carolina State Lottery Commission for a term expiring on  
28 August 31, 2012, to fill the unexpired term of Norwood Clark.

29 SECTION 34.(b) Effective January 1, 2011, the Honorable Fern Shubert of Union  
30 County is appointed to the North Carolina State Lottery Commission a for term expiring on  
31 December 14, 2012, to fill the unexpired term of Bridget Ann Hampden."; and

32  
33 on page 3, lines 27-28, by adding the following new section between those lines to read:



\* S 6 8 6 - A L G - 8 2 - V - 6 \*



**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Wednesday, June 08, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	755	Ed. Employees Ass'n./Equal Access Act.	
		Sequential Referral:	None
		Recommended Referral:	None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

S.B.	224	Professional Sports Agents/College Athletes.	
		Draft Number:	75176
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

S.B.	686	2011 President Pro Tem Appointments Bill.	
		Draft Number:	35270
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1) 762	Landowner Protection Act.	
	Draft Number:	30382
	Sequential Referral:	None
	Recommended Referral:	None
	Long Title Amended:	No

TOTAL REPORTED: 4

Committee Clerk Comments:

JUN 08 2011  
Sarah Clapp

## PAGES ATTENDING

COMMITTEE: Rules ROOM: 1027  
 DATE: 6-8 TIME: 8<sup>AM</sup>

**PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!**

Page Name	Hometown	Sponsoring Senator
1 - Ryder Smith	Burlington	Gunn
② Mariah Bishop	Apex	Stevens
③ Lee Payne	Lexington	Bingham
④ Tucker Loftin	Greensboro	Vaughan
⑤ Metta Longo	Holly Springs	Stevens
⑥		
7		
8		
9		
10		

Do not add names below the grid.



## VISITOR REGISTRATION SHEET

Rules & Operations

6/2/11

Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Paul Sherman	NCFB
Paula Page	NCFB
Chris Diller	NCFB
Evelyn Hawthorne	ETHOR
Forrest Gilliam	Honors Office
Ken Szymanski	Apartment Ass'n. of N.C.
K Rogers	CWMTH
Henni McClees	McClees Casalty
Joe McClees	McClees Casalty
P Howard	MCIC
MIKE WATERS	NCRPA

VISITOR REGISTRATION SHEET

Rules and Operations

6/7/11

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sarah Preston

ACLU-NC

Matt Farrell

NCSBA

MI INTELV. HENLY

SMITH ANDERSON

Robin Johnson

NCAAA

Bill Rustini

AA

Rodney Maddox

NC SOS

Chris Rawls

NC SOS

Jessie Hayes

NC HBA

Cady Thomas

NC AR

Andrew Eagle

NC Sheriffs Assn.

Peter Daniel

NC FARM Bureau

Robert Wilson

SOS

## VISITOR REGISTRATION SHEET

Rules and Operations  
Name of Committee

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

NAME	FIRM OR AGENCY AND ADDRESS
Daniel Palmi	DENR
M. M. Brown	NCBA
GORDON MYERS	NCWRC
HARRY ENNIS	ENCFHA
DONALD E. RAYNOR	ENCFHA
JOHN STEVENSON	ENCFHA
Holly Safi	Disability Rights
R. C. Perryman	CSS
Kathy Hanks	DNR
R. J. Brown	NCFA
George Everett	Duke Energy

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 14 2011

The Committee on Rules and Operations of the Senate met on June 14 2011 at 8:30 a.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced pages, and sergeant-at-arms.

**HOUSE BILL 567 – Mountain Resources Comm’n/Staggered Terms** – Representative McGrady, bill sponsor, explained the bill. Senator Newton moved for favorable report. Motion carried.

**HOUSE BILL 536 – Lincoln and Chatham School Board Districts** – Senator Nesbitt moved to consider the Proposed Committee Substitute for HB 536. Motion carried. Senator Atwater explained the bill. Senator Meredith moved for a favorable report to the PCS. Motion carried.

**SENATE BILL 621 – Simulated Gaming Allowed/Certain ABC Outlets** – Senator Meredith moved for the adoption of the Proposed Committee Substitute to SB 621. Motion carried. Sen. Bingham explained the bill. Mr. Frank Gray, NC Restaurant and Lodging Assn., spoke on the bill. No action was taken at this time.

The meeting adjourned at 9:15 a.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant

**Senate Rules and Operations of the Senate Committee**  
**Tuesday, June 14, 2011**  
**1027**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

<b>HB 536</b>	<b>Lincoln/Chatham School Board Districts</b>	<b>Rep.. Rhyne</b>
<b>HB 320</b>	<b>Continue P3 Study</b>	<b>Rep. McGee</b>
<b>HB 417</b>	<b>Extend Time for Site of Low/Med. Housing</b>	<b>Rep. McGrady</b>
<b>HB 567</b>	<b>Mountain Resources Comm'n/Staggered Terms</b>	<b>Rep. McGrady</b>
<b>SB 621</b>	<b>Simulated Gaming Allowed Certain ABC Outlets</b>	<b>Sen. Bingham</b>

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 567

Short Title: Mountain Resources Comm'n/Staggered Terms. (Public)

Sponsors: Representatives McGrady and Rapp (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government.

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR STAGGERED TERMS FOR THE MOUNTAIN RESOURCES  
COMMISSION ESTABLISHED BY CHAPTER 153B OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153B-3 reads as rewritten:

"§ 153B-3. Mountain Resources Commission.

...

(d) ~~Membership.~~ Membership; Terms. – The Commission shall consist of 17 ~~members~~  
~~members, who shall serve staggered terms. The initial Commission shall be appointed as~~  
~~follows:~~ follows, with all terms commencing on September 1, 2009:

- (1) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Speaker of the House of ~~Representatives.~~ Representatives, one to serve a two-year term and one to serve a four-year term.
- (2) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the President Pro Tempore of the ~~Senate.~~ Senate, one to serve a three-year term and one to serve a five-year term.
- (3) Six representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Governor, including:
  - a. Four who shall at the time of appointment be actively connected with or have experience in local government within the mountain region of Western North ~~Carolina.~~ Carolina, two to serve a two-year term, and two to serve a four-year term.
  - b. One who shall at the time of appointment be actively associated with a land trust organization working in Western North ~~Carolina.~~ Carolina, to serve a five-year term.
  - c. One who shall at the time of appointment have experience in tourism or tourism development in the mountain region of Western North ~~Carolina.~~ Carolina, to serve a three-year term.
- (4) One member to represent the Western North Carolina Public Lands ~~Council.~~ Council, to serve a five-year term.
- (5) Five members to represent each of the following regional councils of government as appointed by those councils: the Southwestern North



1 Carolina Planning and Economic Development Commission, the Isothermal  
2 Planning and Development Commission, the High Country Council of  
3 Governments, the Western Piedmont Council of Governments, and the Land  
4 of Sky Regional ~~Council~~Council, to serve terms of two, three, three, four,  
5 and five years, respectively.

6 (6) One representative appointed by the board of the Blue Ridge National  
7 Heritage ~~Area~~Area, to serve a two-year term.

8 Upon the expiration of the terms of the initial Commission members, each position on the  
9 Commission shall be appointed by the appointing authorities designated in subdivisions (1)  
10 through (6) of this subsection for a four-year term. Members may serve no more than two full  
11 terms consecutively. Upon the expiration of their terms, Commission members shall serve until  
12 a successor is appointed and qualified. Any vacancy on the Commission shall be filled by the  
13 original appointing authority for the remainder of the unexpired term.

14 (d1) ~~Officers; Terms; Officers; Quorum.~~ – The members of the Commission shall elect a  
15 chair, vice-chair, and any other officers they consider necessary and shall determine the length  
16 of the term of office, not to exceed two years, of each officer. A majority of the Commission  
17 shall constitute a quorum. ~~Each member appointed to the Commission shall be appointed to~~  
18 ~~serve a four-year term. Any vacancy on the Commission shall be filled by the original~~  
19 ~~appointing authority for the remainder of the unexpired term. Initial terms commence~~  
20 ~~September 1, 2009.~~

21 (e) Salary; Expenses. – Members of the Commission shall receive no salary for their  
22 service on the Commission but may receive per diem, subsistence, and travel allowances in  
23 accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. All expenses shall be paid from  
24 funds available to the Commission through the Mountain Area Resources Fund, but no  
25 expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds.

26 ...."

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



# HOUSE BILL 567: Mountain Resources Comm'n/Staggered Terms

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 14, 2011
<b>Introduced by:</b>	Reps. McGrady, Rapp	<b>Prepared by:</b>	Denise Adams
<b>Analysis of:</b>	First Edition		Committee Staff

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**SUMMARY:** *House Bill 567 provides for staggered terms for the Mountain Resources Commission established by Chapter 153B of the General Statutes.*

**CURRENT LAW:** G.S. 153B-3 created the 17-member Mountain Resources Commission (Commission) as a permanent body corporate of the State located administratively in the Department of Environment and Natural Resources (Department). Membership on the Commission is comprised of:

- Two members from the public at large who are residents of the mountain region, appointed by the Speaker of the House of Representatives.
- Two members from the public at large who are residents of the mountain region, appointed by the President Pro Tempore of the Senate.
- Six members from the public, residents of the mountain region, appointed by the Governor:
  - Four who are actively connected or have experience in local government in the mountain region.
  - One who is actively associated with a land trust organization working in the mountain region.
  - One who has experience in tourism or tourism development in the mountain region.
- One member to represent the Western North Carolina Public Lands Council.
- Five members representing the various regional councils of governments.
- One member appointed by the board of the Blue Ridge National Heritage Area.

The purpose of the Commission is to:

- Identify and evaluate issues affecting important mountain resources.
- Coordinate with local and regional efforts to address threats to mountain resources.
- Provide a forum for discussing issues affecting important mountain resources.
- Promote communication, coordination and education among stakeholders.
- Collect research and information from North Carolina and other states regarding State and regional approaches coordinating provision of infrastructure for the protection of resources
- Promote efforts to encourage quality growth, investigate new strategies to address pressure on important mountain resources, and provide guidance to local, State, and federal legislative and administrative bodies and others, regarding the use, stewardship, and enhancement of mountain resources.

Members of the Commission serve four-year terms. Initial terms began September 1, 2009.



# House Bill 567

Page 2

**BILL ANALYSIS:** House Bill 567 would stagger the terms of the Mountain Resources Commission so that the following seats will be re-appointed on September 1, 2011 (two year terms):

- One of the two members from the public at large who is a resident of the mountain region, appointed by the Speaker of the House of Representatives.
- Two of the four members appointed by the Governor who are actively connected or have experience in local government in the mountain region.
- The member representing the Southwestern North Carolina Planning and Economic Development Commission.
- The member appointed by the board of the Blue Ridge National Heritage Area.

The following seats will be re-appointed on September 1, 2012 (three year terms):

- One of the two members from the public at large who is a resident of the mountain region, appointed by the President Pro Tempore of the Senate.
- One member appointed by the Governor who has experience in tourism or tourism development in the mountain region.
- The member representing the Isothermal Planning and Development Commission.
- The member representing the High Country Council of Governments.

The following seats will be re-appointed on September 1, 2013 (four year terms):

- One of the two members from the public at large who is a resident of the mountain region, appointed by the Speaker of the House of Representatives.
- Two of the four members appointed by the Governor who are actively connected or have experience in local government in the mountain region.
- The member representing the Western Piedmont Council of Government.

The following seats will be re-appointed on September 1, 2014 (five year terms):

- One of the two members from the public at large who is a resident of the mountain region, appointed by the President Pro Tempore.
- The member appointed by the Governor who is actively associated with a land trust organization working in the mountain region.
- The member who represents the Western North Carolina Public Lands Council.
- The member representing the Land of Sky Regional Council.

House Bill 567 also provides that Commission members will still serve four-year terms once the initial term limits expire. Members cannot serve more than two full terms consecutively. Vacancies will be filled by the original appointing authority.

**EFFECTIVE DATE:** Effective when it becomes law.

*Kelly Quick, Committee Staff to House Government, contributed substantially to this summary.*

*H567-SMTB-26(e1) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 536  
PROPOSED SENATE COMMITTEE SUBSTITUTE H536-CSST-66 [v.1]

6/13/2011 5:21:54 PM

Short Title: Lincoln and Chatham School Board Districts.

(Local)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED

AN ACT REQUIRING THE LINCOLN COUNTY BOARD OF EDUCATION TO REVISE ITS RESIDENCY DISTRICTS AFTER EACH DECENNIAL CENSUS AS IF THEY WERE ELECTORAL DISTRICTS AND REQUIRING THE CHATHAM COUNTY BOARD OF EDUCATION TO REVISE ITS ELECTION DISTRICTS AFTER EACH DECENNIAL CENSUS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Section 3 of Chapter 876 of the 1973 Session Laws, as rewritten by S.L. 2002-22, reads as rewritten:

"Sec. 3. (a) The newly constituted and established Lincoln County Board of Education shall consist of seven members, and each of said members shall be residents and qualified voters of the districts according to the membership allocations hereinafter made as follows:

- (1) North Brook Township,
- (2) The area of Howard's Creek Township outside the city limits of Lincolnton,
- (3) The area of Lincolnton Township outside the city limits of Lincolnton,
- (4) The area inside the city limits of Lincolnton,
- (5) The area of Ironton Township outside the city limits of Lincolnton, and
- (6) Catawba Springs Township.

Each district shall each be entitled to one member on the Lincoln County Board of Education. For the purpose of this section, the city limits of the City of Lincolnton are as of the opening of candidate filing.

One member shall be elected from the county at large, without regard to township.

(b) The Lincoln County Board of Education shall revise the district boundaries set out in subsection (a) of this section after each federal census as provided by this subsection, beginning in 2011, so as to correct population imbalances among the districts. After revising district boundaries under this subsection, the board of education shall not revise them again until a new federal census of population is taken. The population of each district shall be within five percent (5%) of the ideal population, being one-sixth of the total population of the county."

**SECTION 2.** Section 3(f) of Chapter 80 of the 1995 Session Laws reads as rewritten:

(f) The provisions of G.S. 115C-37, except for subsection (i), shall be applicable to the members of the Chatham County Board of Education. Using population data from the 2010 federal decennial census, the Chatham County Board of Education shall before the filing period



1 for the 2012 Board elections to revise the district boundaries set out in subsection (b), above, to  
2 equalize the population in each district and to divide District Number Four into two resident  
3 districts to be denominated District Number Four and District Number Five. The Board shall  
4 adopt the revisions as a resolution, and notify the county board of elections. Board members  
5 elected from Districts Number Four and Five shall serve the same terms as the two members  
6 previously elected from District Number Four. After each subsequent federal decennial census,  
7 the Board of Education shall revise the Board's resident district boundaries if appropriate to  
8 equalize the population among districts. The Board shall complete its revision of resident  
9 district boundaries in time for the first Board election following the decennial census year. In  
10 revising resident district boundaries under this subsection, the Board shall make the districts as  
11 close to equal in population as practicable while maintaining compactness and avoiding the  
12 division of towns and other communities of interest. After revising district boundaries under  
13 this subsection, the Board of Education shall not revise them again until the next federal  
14 decennial census of population is returned. Before adopting a resolution to revise district  
15 boundaries pursuant to this subsection, the Board shall conduct a public hearing on the  
16 resolution. No change in the boundaries of a residency district may affect the unexpired term of  
17 office of a member of the Board of Education."

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



## HOUSE BILL 536: Lincoln School Board Districts

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 13, 2011
<b>Introduced by:</b>	Rep. Rhyme	<b>Prepared by:</b>	Giles S. Perry
<b>Analysis of:</b>	PCS to First Edition H536-CSST-66		Committee Counsel

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**SUMMARY:** *House Bill 536 (PCS) requires the Lincoln County Board of Education to revise its residency districts after each census, as if they were electoral districts; and requires the Chatham County Board of Education to revise its election districts after each census.*

### **BILL ANALYSIS:**

**Section 1** of House Bill 536 provides that the Lincoln County Board of Education shall revise its district boundaries after each federal census, beginning in 2011, to correct population imbalances among the districts.

**Section 2** of the bill provides that the Chatham County Board of Education shall, before the filing period for the 2012 Board elections, revise its district boundaries to equalize the population in each district, and divide District Number Four into two resident districts. The section further provides that after each subsequent federal decennial census, the Board of Education is directed to revise the Board's resident district boundaries to equalize the population among districts.

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

*H536-SMRW-160(CSST-66) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 621  
PROPOSED COMMITTEE SUBSTITUTE S621-CSMA-29 [v.2]

6/13/2011 4:03:13 PM

Short Title: Simulated Gaming Allowed/Certain ABC Outlets.

(Public)

Sponsors:

Referred to:

April 19, 2011

A BILL TO BE ENTITLED

AN ACT TO ALLOW CERTAIN RESTAURANTS AND HOTELS TO PERMIT  
SIMULATED GAMING ON THE LICENSED PREMISES IF THE EVENT IS A  
SPONSORED EVENT AND THE PERMITTEE HAS REGISTERED THE EVENT  
WITH THE ALCOHOLIC BEVERAGE CONTROL COMMISSION PRIOR TO THE  
GAMING EVENT TAKING PLACE AND TO ALLOW ALCOHOLIC BEVERAGES TO  
BE SOLD AT HOTELS, CONVENTIONS CENTERS, FOOD MARKETS, OR  
RESTAURANTS ON THE CENTENNIAL CAMPUS, THE HORACE WILLIAMS  
CAMPUS, OR ANY MILLENNIAL CAMPUS OF A CONSTITUENT INSTITUTION OF  
THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 10 of Chapter 18B of the General Statutes is amended by  
adding a new section to read:

**"§ 18B-1010. Simulated gaming allowed at certain facilities; permit required.**

(a) A hotel or restaurant that has an on-premises malt beverage permit, an on-premises unfortified wine permit, an on-premises fortified wine permit, or a mixed beverages permit may apply to the Commission to register a gaming event. The Commission may issue a registration for a gaming event if a permittee qualifies for registration pursuant to this section. If the Commission issues a registration to a permittee pursuant to this section, the Commission shall notify the ALE Division within 24 hours of the issuance of any registration for a gaming event. The Commission shall not issue a registration pursuant to this section if the permittee fails to apply at least 10 days in advance of the date for the gaming event.

(b) Notwithstanding any provision of Article 37 of Chapter 14 of the General Statutes, G.S. 18B-1005, and Chapter 18C of the General Statutes, a permittee who has been issued a registration for a gaming event pursuant to this section and the sponsor of the gaming event are authorized to possess gaming tables and operate games of chance upon a licensed premises and to allow patrons to participate in certain simulated games of chance at a gaming event and for the permittee to sell and serve alcoholic beverages to the patrons at a gaming event and for those patrons to purchase, possess, and consume alcoholic beverages at a gaming event for which a registration is issued pursuant to this section. All sales and consumption of alcoholic beverages on the licensed premises shall occur only during the hours of sales and consumption set out in G.S. 18B-1004.



1       (c) A natural person at least 21 years of age, a firm, or an organization may serve as the  
2 sponsor of a gaming event. An ABC permittee shall not serve as the sponsor of a gaming event.  
3 The sponsor shall provide chips or markers to be used by the patrons at the event and shall not  
4 require or accept any money or any other thing of value, directly or indirectly, from the patron  
5 or the ABC permittee for the chips or markers. All patrons shall receive the equivalent number  
6 of chips or markers from the sponsor, and no patron shall be permitted to purchase or obtain  
7 any additional chips or markers from the sponsor. Other than the chips or markers issued by the  
8 sponsor, no money or any other thing or value shall be bet, put at stake, or put at risk. The  
9 sponsor shall provide one or more prizes which may be obtained by the patrons only by the  
10 exchange of the chips or markers issued by the sponsor. The prizes provided by the sponsor for  
11 an event shall not exceed two thousand five hundred dollars (\$2,500) per prize or ten thousand  
12 dollars (\$10,000) in the aggregate per event. The chips or markers shall not be redeemable for  
13 any cash value or for any other thing of value, except for the prizes provided by the sponsor.  
14 The sponsor, or its agents or employees, or the ABC permittee, or its agents or employees, may  
15 operate the games only as permitted by the registration issued by the Commission. The sponsor  
16 and the permittee of the facility at which the gaming event shall take place shall ensure that  
17 only patrons with invitations for the event are allowed to access the gaming area or to  
18 participate in the event. The gaming area shall be limited to a private room or other area of the  
19 facility to which the general public is not permitted access and for which the tender of a written  
20 invitation issued by the sponsor shall be required to gain access.

21       (d) The Commission may allow the games of blackjack, poker, roulette, craps, raffles,  
22 and bingo at a registered game event. The Commission shall not permit punchboards, slot  
23 machines, any video game machine prohibited by G.S. 14-306 or G.S. 14-306.1A, any game  
24 terminal described in G.S. 14-306.3(b), or faro bank or faro table at any registered gaming  
25 event.

26       (e) A permittee or a permittee's manager that has not been convicted of any ABC  
27 violation within the past two years, and whose permits have not been suspended or revoked  
28 within the past three years, is eligible to make application to the Commission for registration of  
29 a gaming event. A registration applied for and issued pursuant to this section is not subject to  
30 the provisions of G.S. 18B-900, 18B-901, 18B-902, or 18B-906. A separate application shall be  
31 required for each gaming event, along with a nonrefundable fee of one hundred dollars  
32 (\$100.00), and the Commission shall issue a separate registration for each gaming event. The  
33 Commission shall not issue a registration to a permittee for more than 12 gaming event  
34 registrations per calendar year.

35       (f) The Commission shall develop a form of application for registration of a gaming  
36 event. The application shall include the following information:

- 37       (1) The name and address of the permittee.
- 38       (2) The name, address, and signature of the permittee, sponsor, or person  
39 applying on behalf of the permittee or sponsor who will be responsible for  
40 the event.
- 41       (3) The time, duration, date, and place of the event.
- 42       (4) The games proposed to be operated.
- 43       (5) The name and address of the person, firm, or corporation who will operate  
44 the games and the relationship, if any, of such person, firm, or corporation to  
45 the permittee or sponsor.
- 46       (6) The area of the premises in which the event will be held.
- 47       (7) A description of each prize and the fair market value of each prize to be  
48 made available for exchange at the event.
- 49       (8) Any other information required by the Commission to protect the health,  
50 safety, and welfare of the public.

1 In issuing any registration to allow a gaming event, the Commission shall specify the games  
2 permitted and may specify other requirements.

3 (g) The permittee and the sponsor shall conduct and operate the event in compliance  
4 with this section and with the terms and conditions of the registration issued by the  
5 Commission. A permittee that violates this section shall be guilty of a Class 1 misdemeanor and  
6 shall not be eligible to apply for any other gaming event. A sponsor that violates this section  
7 shall be guilty of a Class 1 misdemeanor and shall not be eligible to sponsor any other gaming  
8 event. A permittee shall be solely responsible to the Commission for any administrative  
9 penalties assessed pursuant to G.S. 18B-104 for violations of ABC law that occur on the  
10 licensed premises."

11 **SECTION 2.** The ABC Commission shall make a report to the 2012 Regular  
12 Session of the 2011 General Assembly detailing the administration of simulated gaming event  
13 registrations, including the total number of applications received by permittee type, the total  
14 number of registrations issued, the number of ABC violations reported at establishments where  
15 gaming event registrations were issued, and any other information the ABC Commission deems  
16 appropriate to report regarding this act and shall provide a recommendation as to whether the  
17 General Assembly should repeal or modify Section 1 of this act. If the recommendation is to  
18 modify Section 1 of this act, the ABC Commission shall submit recommended proposed  
19 legislation to the 2012 Regular Session of the 2011 General Assembly.

20 **SECTION 3.** G.S. 18B-603(f) is amended by adding a new subdivisions to read:

21 "(f) Permits Not Dependent on Elections. – The Commission may issue the following  
22 kinds of permits without approval at an election:

23 ...

24 (10) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for hotels,  
25 convention centers, food markets, or restaurants located on the Centennial  
26 Campus, Horace Williams Campus, or any Millennial Campus of a  
27 constituent institution of The University of North Carolina.

28 (11) The permits authorized by G.S. 18B-1001(1) and (3) for sale of beer and  
29 wine at performing arts centers located on property owned by or leased by a  
30 constituent institution of The University of North Carolina if the seating  
31 capacity does not exceed 2000 seats."

32 **SECTION 4.** G.S. 18B-1006(a) reads as rewritten:

33 "(a) School and College Campuses. – No permit for the sale of malt beverages,  
34 unfortified wine, or fortified wine shall be issued to a business on the campus or property of a  
35 public school or college, other than at a regional facility as defined by G.S. 160A-480.2  
36 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General  
37 Statutes except for a public school or college function, unless that business is a hotel or a  
38 nonprofit alumni organization with a mixed beverages permit or a special occasion permit. This  
39 subsection shall not apply on property owned by a local board of education which was leased  
40 for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing  
41 board is appointed by a city board of aldermen, a county board of commissioners, or a local  
42 school board. This subsection shall also not apply to the constituent institutions of The  
43 University of North Carolina with respect to the sale of beer and wine at performing arts  
44 centers located on property owned or leased by the institutions if the seating capacity does not  
45 exceed 2,000 seats, seats, or to the sale of beer, wine, or mixed beverages at any hotel,  
46 convention center, food market or restaurant located on the Centennial Campus, the Horace  
47 Williams Campus, or any Millennial Campus of a constituent institution of The University of  
48 North Carolina, or to any golf courses owned or leased by the constituent institutions and open  
49 to the public for use."

1           **SECTION 5.** This act is effective October 1, 2011. Prosecutions for offenses  
2 committed before the effective date of this act are not abated or affected by this act, and the  
3 statutes that would be applicable but for this act remain applicable to those prosecutions.





# SENATE BILL 621: Simulated Gaming Allowed/Certain ABC Outlets

2011-2012 General Assembly

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<b>Committee:</b> Senate Commerce	<b>Date:</b> June 13, 2011
<b>Introduced by:</b> Sen. Bingham	<b>Prepared by:</b> Giles S. Perry
<b>Analysis of:</b> PCS to First Edition S621-CSMA-29	Committee Counsel

---

**SUMMARY:** *House Bill authorizes registration of certain simulated gaming sponsored events a licensed premises, and allow alcoholic beverages to be sold at hotels, convention centers, food markets, or restaurants located on the Centennial Campus, Horace Williams Campus, or any Millennial Campus of a constituent institution of The University of North Carolina.*

## **BILL ANALYSIS:**

Section 1 of the bill authorizes simulated sponsored gaming events, if registered, at permitted restaurants and hotels in specified circumstances, as follows:

- authorizes a hotel or restaurant that has an on-premises malt beverage permit, an on-premises unfortified wine permit, an on-premises fortified wine permit, or a mixed beverages permit to apply to register a gaming event.
- authorizes a gaming event permittee and sponsor to possess gaming tables and operate games of chance upon a licensed premises, and at the gaming event allows patrons to participate in certain simulated games of chance, for the permittee to sell and serve alcoholic beverages to the patrons, and for those patrons to purchase, possess, and consume alcoholic beverages.
- provides that the sponsor shall provide chips or markers to be used by the patrons at the event and shall not require or accept any money from the patron or the ABC permittee for the chips or markers.
- provides that the sponsor shall provide one or more prizes, which may be obtained by the patrons only by the exchange of the chips or markers issued by the sponsor. The prizes provided by the sponsor for an event shall not exceed \$2,500 per prize or \$10,000 in the aggregate per event.
- provides the gaming area be limited to a private room or other area of the facility to which the general public is not permitted access and for which a written invitation issued by the sponsor shall be required to gain access.
- provides the Commission may allow the games of blackjack, poker, roulette, craps, raffles, and bingo at a registered game event. The Commission shall not permit punchboards, slot machines, any video game machine, any game terminal, or faro bank or faro table at any registered gaming event.
- provides that a permittee or a permittee's manager that has not been convicted of any ABC violation within the past two years, and whose permits have not been suspended or revoked within the past three years, is eligible to make application to the Commission for registration of a gaming event.
- provides a separate application is required for each gaming event, along with a nonrefundable fee of \$100, and the Commission shall issue a separate registration for each gaming event.

# Senate PCS 621

Page 2

- provides that the Commission shall not issue a registration to a permittee for more than 12 gaming event registrations per calendar year.
- provides that a permittee that violates this section shall be guilty of a Class 1 misdemeanor and shall not be eligible to apply for any other gaming event. A sponsor that violates this section shall be guilty of a Class 1 misdemeanor and shall not be eligible to sponsor any other gaming event.

**Section 2** provides that the Commission shall make a report to the 2012 Regular Session of the 2011 General Assembly detailing the administration of simulated gaming event registrations, and shall provide a recommendation as to whether the General Assembly should repeal or modify Section 1 of this act.

**Section 3** amends G.S. 18B-603(f) to:

- authorize the Commission to issue on-premises malt beverage permits, on-premises unfortified wine permits, on-premises fortified wine permits, and mixed beverage permits, without approval at an election, for hotels, convention centers, food markets, or restaurants located on the Centennial Campus, Horace Williams Campus, or any Millennial Campus of a constituent institution of The University of North Carolina.
- authorize the Commission to issue on-premises malt beverage permits and on-premises unfortified wine permits, for sale of beer and wine at performing arts centers located on property owned by or leased by a constituent institution of The University of North Carolina, if the seating capacity does not exceed 2000 seats.

**Section 4** amends G.S. 18B-1006 to exempt from the prohibition on permits for the sale of beer, wine, or mixed beverages the following: any hotel, convention center, food market or restaurant located on the Centennial Campus, the Horace Williams Campus, or any Millennial Campus of a constituent institution of The University of North Carolina.

**EFFECTIVE DATE:** This act is effective October 1, 2011

*S621-SMRW-159(CSMA-29) v1*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Tuesday, June 14, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

H.B.	<b>567</b>	Mountain Resources Comm'n/Staggered Terms.	
		Sequential Referral:	None
		Recommended Referral:	None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

H.B.	<b>536</b>	Lincoln School Board Districts.	
		Draft Number:	70249
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 2

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE

CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Meg O'Donnell	Cap Results
Jean Nichols	Cap Results
Jamal Jones	NCHA
John Maxwell	P. I. of Army
Cady Thomas	NCAAR
Heather Barnett	Williams Miller
Elizabeth Robinson	NCRMA
CS/Bellis	BS
D Phinlett	PS
ALLEN TURNER	

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Name of Committee

Date

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Amy White	NOMS
DAVID BARNES	DS
Nash Roberts	RSS
Maew O'H	Smith Anderson
Dana Sims	Smith Anderson
Chp Gyan	NOMS
Heath Trip	Smith Anderson
ZEB ALLEN	NMRS
Allison Waller	Nelson Mullins

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Name of Committee

Date

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M. KE James	ASP
Bill Rosten	ASP
John Harlow	MFS
Thomas Moore	Frito U Moore
Gardner Payne	MVC
Tim KENT	NC Beer & Wine Wholesalers
JAIME KING	NCEL
Angie Harris	Williams Mullen
Mary Ann	Carrollton Assisted Living
Kristin Szafanski	JLF

VISITOR REGISTRATION SHEET

Name of Committee

Date

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Matt Arnell	NCSBA
Bill Broadis	NCFPC
Elise Bouchard	Sen. Bingham
Ardis Watkins	SENMC
Jerry Lopez	MWC
Frank Acery	NCRLA
David Ann	NCLR
Ken Melton	K.M.A.
Henry Antam	N.C.B.A.
Rev. Anne Coe	CAC
Roslyn Raines	shadow for Senter Brown

**PAGES ATTENDING**

Date: 6-14

Committee: Rules

Room: 1027-8:30am

**PLEASE PRINT LEGIBLY!!!!**

Page Name	Hometown	Sponsoring Senator
① Alex Festa	Raleigh	Apodola
② Dylan Gurrera	Raleigh	Perce
③ Chase Hinnant	Clayton	Rouzer
Mallory Lowe	Trinity	Bingham
⑤ Sara Coldenough	Clayton	Rouzer
6		
7		
8		
9		

**Do not add additional names below the grid.**

**Pages: Please present this form to either the Committee Clerk at the meeting or a Sgt. at Arms.**



## MINUTES

### RULES AND OPERATIONS OF THE SENATE

June 15, 2011

The Committee on Rules and Operations of the Senate met on June 15, 2011 at 7:30 a.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced pages and sergeant-at-arms assisting with the committee.

**HOUSE BILL 12 – Stop Methamphetamine Labs** – Representative Horn, bill sponsor, explained the bill. Senator Meredith sent forth an amendment and moved for adoption. Motion carried. Senator then moved that HB 12 be given a favorable report as amended and rolled into a Proposed Committee Substitute. Motion carried.

**HOUSE BILL 450 - Guilford County Comm. Districts** – Senator Jackson moved to adopt the Proposed Committee Substitute. Adopted. Representative Blust, bill sponsor, explained the PCS. Senator Brock moved for a favorable report to the PCS.

**HOUSE BILL 796 – Hours of Sale for Alcoholic Beverages** – Senator Jackson moved for adoption of the Proposed Committee Substitute. Motion carried. Senator Jenkins explained the bill. Senator Garrou moved for a favorable report to the PCS. Motion carried.

**HOUSE BILL 618 – Streamline Oversight/DHHS Service Providers** – Senator Apodaca presented the committee with a Proposed Committee Substitute for HB 618. Senator Jackson moved to adopt the PCS. Motion carried. Representative Lewis explained the PCS. Senator Jackson moved to give the PCS a favorable report. Motion carried.

**HOUSE BILL 887 – Zoning/Temp. Family Health Care Structures** – Representative Moffitt, bill sponsor, explained the bill. Senator Brock moved for a favorable report with a referral to Finance. Motion carried.

**HOUSE BILL 854 – Abortion-Woman’s right to Know Act** - Representative Samuelson, bill sponsor, explained the bill. Senator Garrou moved for unfavorable report. Motion failed. Senator Brock moved for a favorable. Motion carried.

**HOUSE BILL 367 – Roanoke Rapids Deannexation** – Senator Jones spoke on the bill. Senator Brown moved for a favorable report with a referral to Finance. Motion carried.

**HOUSE BILL 687 – Atty Fees/City or County Action Outside Auth** – Senator Apodaca presented the committee with a Proposed Committee Substitute and Senator Newton moved to adopt the PCS. Representative Brawley explained the bill. Senator Newton moved for a favorable report to the PCS. Motion carried.

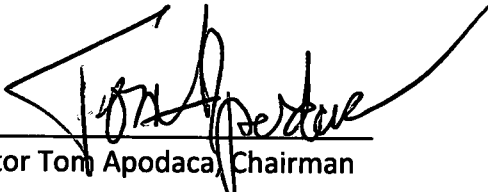
**HOUSE BILL 311 – Household Goods Carriers/ID Markings** – Representative Samuelson explained the bill. Senator Brock moved for a favorable report. Motion carried.

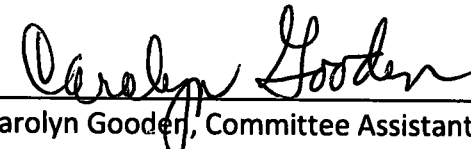
**HOUSE BILL 895 – Butner Fire & Police District Modifications** – Senator Apodaca asked staff to explain the bill. Senator Brock moved for a favorable report. Motion carried.

**HOUSE BILL 644 – Establish Pharmacy Audit Rights** – Senator Apodaca presented the Proposed Committee Substitute to the committee. Representative Murry explained the bill. Senator Mansfield moved for a favorable to the PCS. Motion carried.

**HOUSE BILL 720 – School & Teacher Paperwork Reduction Act** – Representative Murry explained the bill. Senator Blue sent forward an amendment and moved for adoption. Motion carried. Senator Blue moved to give the bill a favorable report as amended. Motion carried.

The meeting adjourned at 9:30 a.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant

**Senate Rules and Operations of the Senate Committee**  
**Wednesday, June 15, 2011**  
**1027**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills:**

<b>HB 12</b>	<b>Stop Methamphetamine Labs.</b>	<b>Rep. Horn</b>
<b>HB 281</b>	<b>ETJ Restrictions</b>	<b>Rep. LaRoque</b>
<b>HB 320</b>	<b>Continue P3 Study</b>	<b>Rep. McGee</b>
<b>HB 450</b>	<b>LRC Study Auto renewal Credit Card</b>	<b>Rep. Starnes</b>
<b>HB 618</b>	<b>Streamline Oversight/DHHS Service Providers</b>	<b>Rep. Lewis</b>
<b>HB 687</b>	<b>Atty Fees/City or County Action Outside Auth.</b>	<b>Rep. Brubaker</b>
<b>HB 796</b>	<b>Study Property Tax Valuation Process</b>	<b>Rep. Moffitt</b>
<b>HB 887</b>	<b>Zoning/Temp. Family Health Care Structures</b>	<b>Rep. Howard</b>
<b>HB 895</b>	<b>Butner Fire &amp; Police District</b>	<b>Rep. Crawford</b>
<b>HB 720</b>	<b>School &amp; Teacher Paperwork Reduction Act</b>	<b>Rep. Murry</b>
<b>HB 854</b>	<b>Abortion-Woman's Right to Know</b>	<b>Rep. Samuelson</b>
<b>HB 367</b>	<b>Roanoke Rapids Deannexation</b>	<b>Rep. Bryant</b>
<b>HB 311</b>	<b>Household Goods Carriers/ID Marking</b>	<b>Rep. McComas</b>
<b>HB 644</b>	<b>Establish Pharmacy Audit Rights</b>	<b>Rep. Crawford</b>
<b>HB 757</b>	<b>Study Consolidation of DV Comm/CFW</b>	<b>Rep. Cook</b>

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 12  
Committee Substitute Favorable 6/8/11

Short Title: Stop Methamphetamine Labs.

(Public)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE REGULATION ON PSEUDOEPHEDRINE PRODUCTS TO  
2 CURTAIL METHAMPHETAMINE PRODUCTION AND TO REDUCE COSTS TO  
3 LOCAL GOVERNMENTS FOR LAB CLEANUP COSTS, AND TO STUDY THE  
4 EFFICACY OF ELECTRONIC RECORD KEEPING WITH A REPORT TO THE 2013  
5 GENERAL ASSEMBLY.  
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** It is the intent and purpose of this act to continue efforts begun with  
9 the Methamphetamine Lab Prevention Act of 2005 to regulate the sale of pseudoephedrine  
10 products that are used to manufacture methamphetamine. The use of electronic tracking of  
11 methamphetamine sales is being used in several states, including those bordering this State.  
12 Other states, which at the time of this act include Oregon and Mississippi, have seen a  
13 reduction in methamphetamine labs by designating pseudoephedrine and like products as  
14 Schedule III controlled substances, thereby requiring a prescription to obtain pseudoephedrine  
15 products. A study should be undertaken to evaluate the efficacy of this act in addressing the  
16 production of methamphetamine and to determine whether more stringent methods for the  
17 curtailment of methamphetamine production should be allowed to take effect.

18 **SECTION 2.** Article 5D of Chapter 90 of the General Statutes is amended by  
19 adding a new section to read:

20 "**§ 90-113.52A. Electronic record keeping.**

21 (a) A retailer shall, before completing a sale of a product containing a pseudoephedrine  
22 product, electronically submit the required information to the National Precursor Log Exchange  
23 (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI),  
24 provided that the NPLEx system is available to retailers in the State without a charge for  
25 accessing the system and the retailer has Internet access. The seller shall not complete the sale  
26 if the system generates a stop alert. Absent negligence, wantonness, recklessness, or deliberate  
27 misconduct, any retailer utilizing the electronic sales tracking system in accordance with this  
28 subsection shall not be civilly liable as a result of any act or omission in carrying out the duties  
29 required by this subsection and shall be immune from liability to any third party unless the  
30 retailer has violated any provision of this subsection in relation to a claim brought for such  
31 violation.

32 (b) If a pharmacy selling a product containing a pseudoephedrine product experiences  
33 mechanical or electronic failure of the electronic sales tracking system and is unable to comply  
34 with the electronic sales tracking requirement, the pharmacy or retail establishment shall record  
35 that the sale was made without submission to the NPLEx system in the record of disposition  
36 required under G.S. 90-113.52.



1       (c) The NADDI shall forward North Carolina transaction records in NPLeX to the State  
2 Bureau of Investigation weekly and provide real-time access to NPLeX information through the  
3 NPLeX online portal to law enforcement in the State as authorized by the SBI, provided that  
4 the SBI executes a memorandum of understanding with NADDI governing access.

5       (d) This system shall be capable of generating a stop sale alert, which shall be a  
6 notification that completion of the sale would result in the seller or purchaser violating the  
7 quantity limits set forth in G.S. 90-113.52. The system shall contain an override function that  
8 may be used by a dispenser of a pseudoephedrine product who has a reasonable fear of  
9 imminent bodily harm if the dispenser does not complete a sale. Each instance in which the  
10 override function is utilized shall be logged by the system."

11       **SECTION 3.** G.S. 90-113.56 reads as rewritten:

12       **"§ 90-113.56. Penalties.**

13       (a) If a retailer willfully and knowingly violates the provisions of G.S. 90-113.52,  
14 90-113.52A, 90-113.53, or 90-113.54, the retailer shall be guilty of a Class A1 misdemeanor  
15 for the first offense and a Class I felony for a second or subsequent offense. A retailer  
16 convicted of a third offense occurring on the premises of a single establishment shall be  
17 prohibited from making pseudoephedrine products available for sale at that establishment.

18       (b) Any purchaser or employee who willfully and knowingly violates G.S. 90-113.52A,  
19 G.S. 90-113.52(c) or G.S. 90-113.53 shall be guilty of a Class 1 misdemeanor for the first  
20 offense, a Class A1 misdemeanor for a second offense, and a Class I felony for a third or  
21 subsequent offense. This subsection shall not be construed to apply to bona fide innocent  
22 purchasers.

23       (c) A retailer who fails to train employees in accordance with G.S. 90-113.55,  
24 adequately supervise employees in transactions involving pseudoephedrine products, or  
25 reasonably discipline employees for violations of this Article shall be fined up to five hundred  
26 dollars (\$500.00) for the first violation, up to seven hundred fifty dollars (\$750.00) for the  
27 second violation, and up to one thousand dollars (\$1,000) for a third or subsequent violation of  
28 this section."

29       **SECTION 4.** Beginning with the 2011 calendar year, the State Bureau of  
30 Investigation shall determine the number of methamphetamine laboratories discovered in the  
31 State each calendar year and report its findings to the Legislative Commission on  
32 Methamphetamine Abuse by March 1, 2012, for the 2011 calendar year and each March 1  
33 thereafter for the preceding calendar year.

34       **SECTION 5.** The Legislative Commission on Methamphetamine Abuse,  
35 established by the Methamphetamine Lab Prevention Act of 2005, in addition to its statutory  
36 responsibilities, shall study (i) the implementation of the provisions in this act, including the  
37 number of methamphetamine labs that are discovered annually, and (ii) the potential costs of  
38 making pseudoephedrine products Schedule III controlled substances. The Commission may  
39 make an interim report to the 2012 Regular Session of the 2011 General Assembly and shall  
40 make a final report with findings and recommendations to the General Assembly upon the  
41 convening of the 2013 General Assembly.

42       **SECTION 6.** Sections 2 and 3 of this act become effective January 1, 2012, and  
43 Section 3 applies to offenses occurring on or after that date, and the remainder of this act is  
44 effective when it becomes law.



## HOUSE BILL 12: Stop Methamphetamine Labs

2011-2012 General Assembly

---

<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 14, 2011
<b>Introduced by:</b>	Reps. Cleveland, Horn, McElraft	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	Second Edition		Committee Counsel

---

**SUMMARY:** *House Bill 12 requires retailers with internet access to report information relating to the sale of pseudoephedrine containing products to an electronic drug tracking system operated by the National Association of Drug Diversion Investigators, and requires the Legislative Commission on Methamphetamine Abuse to report to the General Assembly on the implementation of this act and the cost of making products containing pseudoephedrine Schedule III controlled substances.*

**CURRENT LAW:** Under the Methamphetamine Lab Prevention Act of 2005, Article 5D of Chapter 90 of the General Statutes, pseudoephedrine may not be sold by self-service; it must be stored behind a pharmacy counter. A person 18 years or older must show photo identification in order to purchase it, and a record of the disposition must be kept. A total of only 3.6 grams may be purchased daily, and no more than 9 grams may be purchased in a 30 day period. These provisions do not apply to any pseudoephedrine that is in the form of a liquid, liquid capsule, gel capsule, or pediatric product labeled pursuant to federal regulations primarily for children, with possible exceptions as specified by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services.

**BILL ANALYSIS:** Section 1 of House Bill 12 declares the act's intent and purpose of continuing the State's efforts to regulate the sale of products containing pseudoephedrine begun with the Methamphetamine Lab Prevention Act of 2005.

Section 2 of House Bill 12 would require retailers selling products containing pseudoephedrine to participate in the electronic drug tracking system administered by the National Association of Drug Diversion Investigators (NADDI), if that system is available to retailers in the State without charge for accessing the system, and the retailer has Internet access. Information obtained by the NADDI would be forwarded weekly to the SBI and made available to State law enforcement as authorized by the SBI pursuant to a memorandum of understanding to be executed between the SBI and the NADDI. The system will be capable of alerting the retailer that a sale would violate the quantity limits set forth in G.S. 90-113.52.

Section 3 of the bill also makes the knowing violation of the new electronic record keeping requirement a Class A1 misdemeanor for the first offense and a Class I felony for a second or subsequent offense.

Section 4 of the bill directs the SBI to determine the number of meth labs discovered each calendar year and make annual reports to the Legislative Commission on Methamphetamine Abuse beginning with the 2011 calendar year.

Section 5 of the bill requires the Legislative Commission on Methamphetamine Abuse to study the implementation of the electronic record keeping provisions of the act, the number of meth labs discovered annually, and the potential costs of making products containing pseudoephedrine Schedule III controlled substances, and to report its findings to the 2013 General Assembly.

**EFFECTIVE DATE:** Sections 2 and 3 of the act become effective January 1, 2012. Section 3 applies to offenses occurring on or after that date. The remainder of the act is effective when it becomes law.

*Hal Pell, counsel to House Judiciary Subcommittee B, substantially contributed to this summary.*

H12-SMTG-63(e2) v2

Research Division

O. Walker Reagan, Director

(919) 733-2578



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 12

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

H12-ARK-95 [v.2]

Page 1 of 1

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

Date \_\_\_\_\_, 2011

Senator Meredith

1 moves to amend the bill on page 2, line 33, by inserting the following at the end of the line:  
2

3 "The State Bureau of Investigation shall participate in the High Intensity Drug Trafficking  
4 Areas (HIDTA) program, assist in coordinating the drug control efforts between local and State  
5 law enforcement agencies, and monitor the implementation and effectiveness of the electronic  
6 recordkeeping requirements included in this act. The SBI shall include its findings in the  
7 report to the Commission required by this section."  
8  
9

SIGNED W. A. Meredith  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 450  
Committee Substitute Favorable 6/1/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H450-PCS11249-TC-31

Short Title: Guilford County Comm. Districts.

(Local)

Sponsors:

Referred to:

March 24, 2011

A BILL TO BE ENTITLED

AN ACT TO RESTRUCTURE THE GUILFORD COUNTY BOARD OF  
COMMISSIONERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 136, Session Laws of 1991, as reenacted by Section 1 of Chapter 521, Session Laws of 1993, is repealed.

**SECTION 2.(a)** Effective on the first Monday of December 2012, the Board of Commissioners of Guilford County shall consist of nine members. The members shall be elected on a partisan basis at the time of the regular county primary and general elections. One member shall be elected from each of eight single-member districts established under subsection (d) of this section. One member shall be elected at large from within the entirety of Guilford County.

**SECTION 2.(b)** In 2012 and quadrennially thereafter, members for Districts 1, 6, 7, and 8 shall be elected for four-year terms. In 2014 and quadrennially thereafter, members for Districts 2, 3, 4, and 5, and one at-large member shall be elected for four-year terms.

**SECTION 2.(c)** The qualified voters of each district shall elect the member of the board for that district. Candidates must reside in the district for which they seek to be elected.

**SECTION 2.(d)** The districts are as follows:

**District 1:** Guilford County: VTD: G53, VTD: G55, VTD: G57, VTD: G59, VTD: G60, VTD: H03, VTD: H05, VTD: H06, VTD: H07, VTD: H08, VTD: H09, VTD: H10, VTD: H11, VTD: H12, VTD: H18, VTD: H19A, VTD: JAM4, VTD: SUM1, VTD: SUM2.

**District 2:** Guilford County: VTD: H01, VTD: H02, VTD: H13, VTD: H14, VTD: H15, VTD: H16, VTD: H17, VTD: H19B, VTD: H20A, VTD: H20B, VTD: H21, VTD: H22, VTD: H23, VTD: H24, VTD: H25, VTD: H26, VTD: H27, VTD: HP, VTD: JAM1, VTD: JAM2.

**District 3:** Guilford County: VTD: FR1, VTD: FR2, VTD: FR3, VTD: FR4, VTD: FR5, VTD: G39, VTD: G40A1, VTD: G40A2, VTD: G40B, VTD: G41, VTD: G42, VTD: G43, VTD: G63, VTD: G64, VTD: G65, VTD: G66, VTD: JAM3, VTD: NDRI, VTD: SDRI.

**District 4:** Guilford County: VTD: FEN1, VTD: G46, VTD: G47, VTD: G48, VTD: G49, VTD: G50, VTD: G51, VTD: G52, VTD: G54, VTD: G56, VTD: G58, VTD: G61, VTD: G62, VTD: G69, VTD: G73, VTD: G75, VTD: JEF3.





1 **District 5:** Guilford County: VTD: G01, VTD: G02, VTD: G03, VTD: G04, VTD: G05, VTD:  
2 G06, VTD: G07, VTD: G08, VTD: G09, VTD: G10, VTD: G26, VTD: G67, VTD: G68,  
3 VTD: G70, VTD: G71, VTD: G72, VTD: G74, VTD: MON2.

4 **District 6:** Guilford County: VTD: FEN2, VTD: GIB, VTD: GR, VTD: H04, VTD: JAM5,  
5 VTD: JEF1, VTD: JEF2, VTD: JEF4, VTD: MON1, VTD: NCLAY1, VTD: NCLAY2,  
6 VTD: PG1, VTD: PG2, VTD: RC1, VTD: RC2, VTD: SCLAY, VTD: SMAD, VTD:  
7 SUM3, VTD: SUM4, VTD: SWASH.

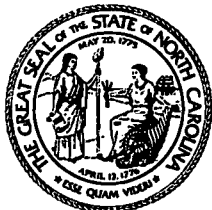
8 **District 7:** Guilford County: VTD: CG1, VTD: CG2, VTD: CG3A, VTD: CG3B, VTD: G25,  
9 VTD: G27, VTD: G28, VTD: MON3, VTD: NCGR1, VTD: NCGR2, VTD: NMAD, VTD:  
10 NWASH, VTD: OR1, VTD: OR2, VTD: SF1, VTD: SF2, VTD: SF3, VTD: SF4, VTD:  
11 STOK.

12 **District 8:** Guilford County: VTD: G11, VTD: G12, VTD: G13, VTD: G14, VTD: G15, VTD:  
13 G16, VTD: G17, VTD: G18, VTD: G19, VTD: G20, VTD: G21, VTD: G22, VTD: G23,  
14 VTD: G24, VTD: G29, VTD: G30, VTD: G31, VTD: G32, VTD: G33, VTD: G34, VTD:  
15 G35, VTD: G36, VTD: G37, VTD: G38, VTD: G44, VTD: G45

16 **SECTION 3.** Following the return of the 2020 Census, and each Census thereafter,  
17 the Guilford County Board of Commissioners may revise the election districts.

18 **SECTION 4.** The Guilford County Commissioners shall submit the changes  
19 required by this act to the U.S. Department of Justice pursuant to section 5 of the Voting Rights  
20 Act of 1965.

21 **SECTION 5.** This act becomes effective January 1, 2012.



## HOUSE BILL 450: Guilford County Comm. Districts

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 15, 2011
<b>Introduced by:</b>	Rep. Starnes	<b>Prepared by:</b>	Kara McCraw
<b>Analysis of:</b>	PCS to Second Edition H450-CSTC-31		Committee Counsel

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**SUMMARY:** The PCS for HB 450 would establish a 9 member Board of Commissioners for Guilford County, and would create election districts for the eight members of the board elected by district.

**CURRENT LAW:** S.L. 1991-136 established an 11 member Board of Commissioners for Guilford County. The members are elected on a partisan basis to four year terms of office in staggered elections held in even years. Nine members are elected respectively from one of nine single-member districts by the voters of that district, and two members are elected at-large by the entire County of Guilford.

**BILL ANALYSIS:** The PCS for HB 467 would repeal the current structure for the Guilford County Board of Commissioners, and would create a nine member board, effective December 2012.

- Eight members would each be elected from one of eight single-member districts by the voters of that district.
- One member would be elected at-large by the entire County of Guilford.

The members would still be elected on a partisan basis to four year terms of office in staggered elections held in even years. In 2012, members for Districts 1, 6, 7, and 8 would be elected. In 2014, members for Districts 2, 3, 4, and 5, and the one at-large member would be elected.

Section 2 (d) would create eight districts as illustrated by the attached maps.

Section 3 would authorize the Guilford County Commissioners to revise districts following the return of the 2020 census and each census thereafter.

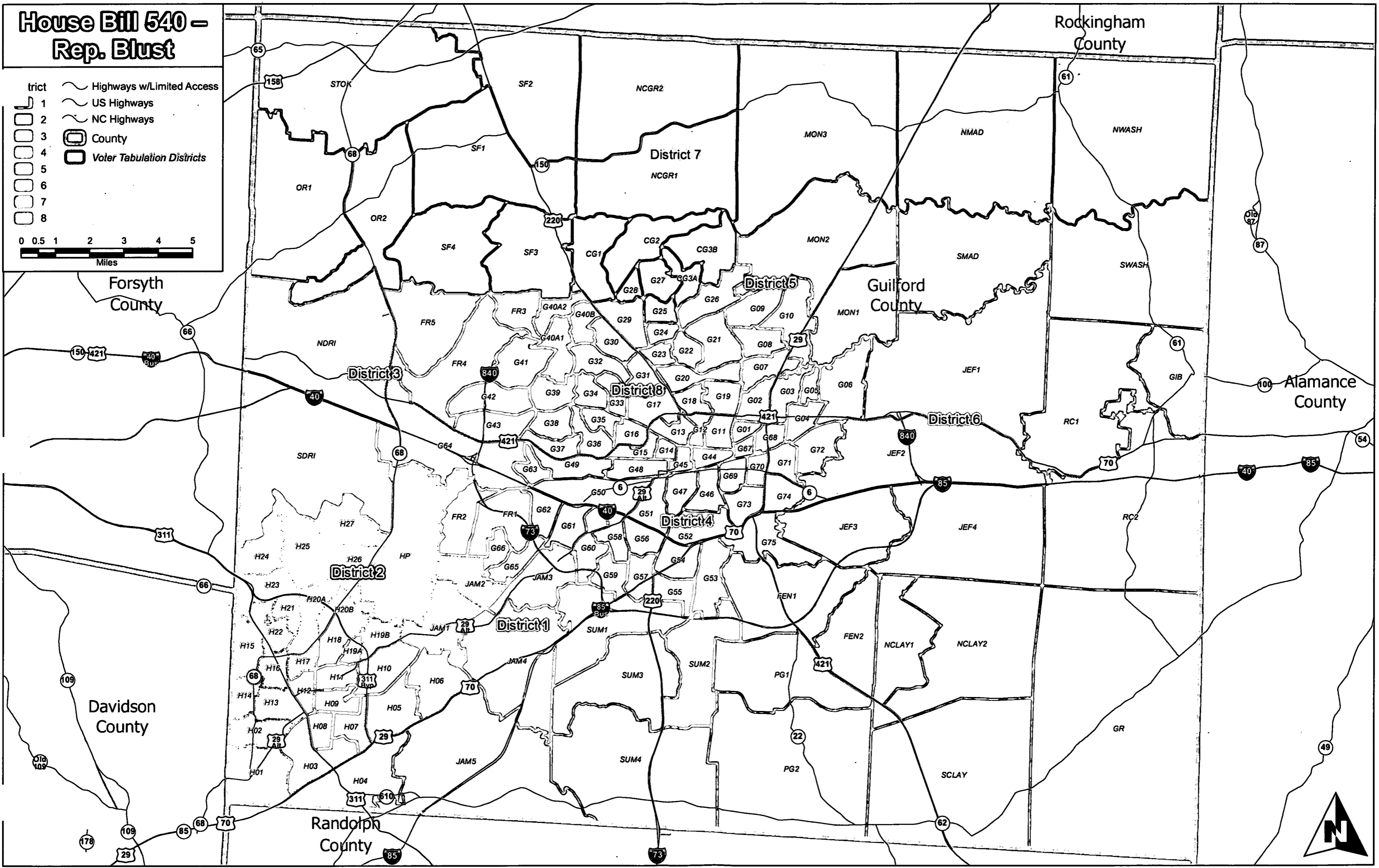
Section 4 would direct the Guilford County Commissioners to submit the changes required by the act to the U.S. Department of Justice pursuant to Section 5 of the Voting Rights Act.

**EFFECTIVE DATE:** HB 450 would become effective January 1, 2012, but could not be implemented until the session law receives preclearance under Section 5 of the Voting Rights Act.

H450-SMTC-46(CSTC-31) v1

# House Bill 540 - Rep. Blust

- istrict 1
- istrict 2
- istrict 3
- istrict 4
- istrict 5
- istrict 6
- istrict 7
- istrict 8



District	2010 Pop	Ideal Pop	Ideal +/-	% +/-
1	61,437	61,051	386	0.63%
2	60,028	61,051	-1,023	-1.68%
3	62,108	61,051	1,057	1.73%
4	60,430	61,051	-621	-1.02%
5	60,976	61,051	-75	-0.12%
6	60,650	61,051	-401	-0.66%
7	61,893	61,051	842	1.38%
8	60,884	61,051	-167	-0.27%

Total Population by Race																	Total Population by Ethnicity						
District	Total	White	% White	Black	% Black	NA	% NA	A/PI	% A/PI	Other	% Other	MR	% MR	MR Black	% MR Black	Total Black	Total % Black	Hisp	% Hisp	Non Hisp	% Non Hisp	White Non Hisp	% White Non Hisp
1	61,437	19,653	31.99%	33,043	53.78%	413	0.67%	3,226	5.25%	3,461	5.63%	1,641	2.67%	1,102	1.79%	34,145	55.58%	6,121	9.96%	55,316	90.04%	17,693	28.80%
2	60,028	40,882	68.10%	12,175	20.28%	298	0.50%	3,293	5.49%	2,143	3.57%	1,237	2.06%	649	1.08%	12,824	21.36%	4,551	7.58%	55,477	92.42%	38,906	64.81%
3	62,108	43,887	70.66%	11,878	19.12%	224	0.36%	3,156	5.08%	1,373	2.21%	1,590	2.56%	828	1.33%	12,706	20.46%	3,561	5.73%	58,547	94.27%	42,099	67.78%
4	60,430	18,577	30.74%	33,018	54.64%	495	0.82%	2,684	4.44%	3,930	6.50%	1,726	2.86%	1,228	2.03%	34,246	56.67%	6,809	11.27%	53,621	88.73%	16,420	27.17%
5	60,976	12,149	19.92%	41,974	68.84%	337	0.55%	2,207	3.62%	2,705	4.44%	1,604	2.63%	1,119	1.84%	43,093	70.67%	4,819	7.90%	56,157	92.10%	10,801	17.71%
6	60,650	44,892	74.02%	10,663	17.58%	408	0.67%	1,357	2.24%	2,169	3.58%	1,161	1.91%	614	1.01%	11,277	18.59%	4,060	6.69%	56,590	93.31%	43,363	71.50%
7	61,893	51,616	83.40%	6,492	10.49%	199	0.32%	1,641	2.65%	907	1.47%	1,038	1.68%	489	0.79%	6,981	11.28%	2,440	3.94%	59,453	96.06%	50,247	81.18%
8	60,884	46,869	76.98%	9,656	15.86%	220	0.36%	1,847	3.03%	987	1.62%	1,305	2.14%	749	1.23%	10,405	17.09%	2,465	4.05%	58,419	95.95%	45,699	75.06%
<b>Totals:</b>	<b>488,406</b>	<b>278,525</b>	<b>57.03%</b>	<b>158,899</b>	<b>32.53%</b>	<b>2,594</b>	<b>0.53%</b>	<b>19,411</b>	<b>3.97%</b>	<b>17,675</b>	<b>3.62%</b>	<b>11,302</b>	<b>2.31%</b>	<b>6,778</b>	<b>1.39%</b>	<b>165,677</b>	<b>33.92%</b>	<b>34,826</b>	<b>7.13%</b>	<b>453,580</b>	<b>92.87%</b>	<b>265,228</b>	<b>54.30%</b>

Voting Age Population by Race																	Total Population by Ethnicity						
District	Total	White	% White	Black	% Black	NA	% NA	A/PI	% A/PI	Other	% Other	MR	% MR	MR Black	% MR Black	Total Black	% Total Black	Hisp	% Hisp	Non Hisp	% Non Hisp	White Non Hisp	% White Non Hisp
1	45,461	16,521	36.34%	23,555	51.81%	291	0.64%	2,238	4.92%	2,111	4.64%	745	1.64%	436	0.96%	23,991	52.77%	3,693	8.12%	41,768	91.88%	15,302	33.66%
2	46,000	32,970	71.67%	8,616	18.73%	236	0.51%	2,269	4.93%	1,334	2.90%	575	1.25%	244	0.53%	8,860	19.26%	2,834	6.16%	43,166	93.84%	31,725	68.97%
3	48,802	35,553	72.85%	9,011	18.46%	155	0.32%	2,324	4.76%	953	1.95%	806	1.65%	373	0.76%	9,384	19.23%	2,404	4.93%	46,398	95.07%	34,339	70.36%
4	46,216	15,926	34.46%	24,532	53.08%	371	0.80%	1,984	4.29%	2,490	5.39%	913	1.98%	580	1.25%	25,112	54.34%	4,321	9.35%	41,895	90.65%	14,523	31.42%
5	45,189	9,900	21.91%	31,119	68.86%	242	0.54%	1,433	3.17%	1,635	3.62%	860	1.90%	574	1.27%	31,693	70.13%	2,902	6.42%	42,287	93.58%	9,079	20.09%
6	46,492	35,866	77.14%	7,601	16.35%	293	0.63%	940	2.02%	1,253	2.70%	539	1.16%	217	0.47%	7,818	16.82%	2,331	5.01%	44,161	94.99%	34,983	75.25%
7	45,700	38,600	84.46%	4,878	10.67%	132	0.29%	1,113	2.44%	533	1.17%	444	0.97%	174	0.38%	5,052	11.05%	1,464	3.20%	44,236	96.80%	37,763	82.63%
8	50,063	39,518	78.94%	7,536	15.05%	169	0.34%	1,397	2.79%	692	1.38%	751	1.50%	407	0.81%	7,943	15.87%	1,725	3.45%	48,338	96.55%	38,668	77.24%
<b>Totals:</b>	<b>373,923</b>	<b>224,854</b>	<b>60.13%</b>	<b>116,848</b>	<b>31.25%</b>	<b>1,889</b>	<b>0.51%</b>	<b>13,698</b>	<b>3.66%</b>	<b>11,001</b>	<b>2.94%</b>	<b>5,633</b>	<b>1.51%</b>	<b>3,005</b>	<b>0.80%</b>	<b>119,853</b>	<b>32.05%</b>	<b>21,674</b>	<b>5.80%</b>	<b>352,249</b>	<b>94.20%</b>	<b>216,382</b>	<b>57.87%</b>

District	VR Total	Registration by Party															Registration by Race Without Regard to Party				
		% D	Racial %s among D's				% R	Racial %s among R's				% U	Racial %s among U's				% L	% White	% Black	% NA	% Other
			White % of D	Black % of D	NA % of D	Other % of D		White % of R	Black % of R	NA % of R	Other % of R		White % of U	Black % of U	NA % of U	Other % of U					
1	38,361	65.21%	18.11%	77.55%	0.40%	3.94%	17.17%	86.03%	9.35%	0.36%	4.25%	17.54%	50.22%	38.13%	0.51%	11.15%	0.08%	35.44%	58.89%	0.41%	5.26%
2	43,112	37.96%	56.41%	37.89%	0.23%	5.47%	38.94%	96.17%	1.20%	0.14%	2.49%	22.96%	79.83%	11.10%	0.30%	8.76%	0.14%	77.31%	17.40%	0.21%	5.08%
3	46,379	39.02%	58.03%	35.54%	0.25%	6.18%	35.97%	96.04%	1.22%	0.12%	2.62%	24.84%	80.05%	10.38%	0.23%	9.33%	0.17%	77.22%	16.89%	0.20%	5.69%
4	40,445	68.28%	20.11%	75.52%	0.39%	3.98%	13.30%	83.66%	10.23%	0.60%	5.52%	18.32%	52.00%	37.09%	0.57%	10.34%	0.11%	34.45%	59.74%	0.45%	5.36%
5	42,349	74.27%	11.02%	85.70%	0.24%	3.05%	9.18%	76.42%	17.74%	0.41%	5.43%	16.45%	32.42%	58.45%	0.42%	8.71%	0.10%	20.58%	74.95%	0.28%	4.20%
6	41,345	37.56%	59.72%	36.66%	0.30%	3.31%	40.64%	97.52%	1.04%	0.24%	1.21%	21.64%	85.33%	8.76%	0.42%	5.49%	0.15%	80.67%	16.10%	0.30%	2.93%
7	45,450	32.70%	69.50%	26.42%	0.18%	3.90%	43.06%	97.35%	0.71%	0.08%	1.86%	24.08%	87.74%	6.05%	0.18%	6.03%	0.15%	85.92%	10.40%	0.14%	3.54%
8	51,546	45.53%	72.21%	23.48%	0.19%	4.13%	30.13%	96.95%	1.16%	0.10%	1.80%	24.14%	83.18%	9.39%	0.21%	7.22%	0.20%	82.34%	13.32%	0.16%	4.18%
<b>Totals:</b>	<b>348,987</b>	<b>49.40%</b>	<b>40.50%</b>	<b>55.09%</b>	<b>0.28%</b>	<b>4.13%</b>	<b>29.01%</b>	<b>94.64%</b>	<b>2.72%</b>	<b>0.18%</b>	<b>2.46%</b>	<b>21.45%</b>	<b>72.41%</b>	<b>19.10%</b>	<b>0.33%</b>	<b>8.17%</b>	<b>0.14%</b>	<b>63.11%</b>	<b>32.12%</b>	<b>0.26%</b>	<b>4.52%</b>

D=Democratic, R=Republican, U=Unaffiliated, L=Libertarian, NA= American Indian.  
Voters who do not designate a race are omitted from this chart, so the percentages may not add up to 100%

District	Voter Registration by Gender							Voter Registration by Age								Voter Registration by Ethnicity							
	Total	Male	Male %	Female	Female %	Undes.		Total	18-25	18-25 %	26-40	26-40 %	41-65	41-65 %	66+	66+ %	Total	Hispanic	Hisp %	Non-Hisp	Non H %	Undesign.	Undes. %
1	38,361	16,299	42.49%	21,973	57.28%	89	0.23%	38,361	4,657	12.14%	10,552	27.51%	16,830	43.87%	6,322	16.48%	38,361	453	1.18%	31,997	83.41%	5,911	15.41%
2	43,112	19,292	44.75%	23,732	55.05%	88	0.20%	43,112	3,618	8.39%	11,059	25.65%	19,975	46.33%	8,460	19.62%	43,112	606	1.41%	38,574	89.47%	3,932	9.12%
3	46,379	20,807	44.86%	25,494	54.97%	78	0.17%	46,379	5,340	11.51%	13,472	29.05%	19,832	42.76%	7,735	16.68%	46,379	616	1.33%	41,418	89.30%	4,345	9.37%
4	40,445	17,003	42.04%	23,349	57.73%	93	0.23%	40,445	6,266	15.49%	12,736	31.49%	15,623	38.63%	5,820	14.39%	40,445	437	1.08%	33,962	83.97%	6,046	14.95%
5	42,349	17,850	42.15%	24,381	57.57%	118	0.28%	42,349	8,949	21.13%	12,468	29.44%	15,010	35.44%	5,922	13.98%	42,349	391	0.92%	34,345	81.10%	7,613	17.98%
6	41,345	19,016	45.99%	22,261	53.84%	68	0.16%	41,345	3,586	8.67%	9,739	23.56%	19,714	47.68%	8,306	20.09%	41,345	301	0.73%	37,568	90.86%	3,476	8.41%
7	45,450	21,201	46.65%	24,181	53.20%	68	0.15%	45,450	4,044	8.90%	10,228	22.50%	24,457	53.81%	6,721	14.79%	45,450	363	0.80%	41,932	92.26%	3,155	6.94%
8	51,546	22,859	44.35%	28,575	55.44%	112	0.22%	51,546	7,432	14.42%	13,462	26.12%	20,457	39.69%	10,195	19.78%	51,546	373	0.72%	45,889	89.03%	5,284	10.25%
<b>Totals:</b>	<b>348,987</b>	<b>154,327</b>	<b>44.22%</b>	<b>193,946</b>	<b>55.57%</b>	<b>714</b>	<b>0.20%</b>	<b>348,987</b>	<b>43,892</b>	<b>12.58%</b>	<b>93,716</b>	<b>26.85%</b>	<b>151,898</b>	<b>43.53%</b>	<b>59,481</b>	<b>17.04%</b>	<b>348,987</b>	<b>3,540</b>	<b>1.01%</b>	<b>305,685</b>	<b>87.59%</b>	<b>39,762</b>	<b>11.39%</b>



District	2004 Auditor Campbell-Merritt				2004 Governor Easley-Ballantine-Howe						2004 President Kerry-Bush-Badnarik								2004 US Senate Bowles-Burr-Bailey							
	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Lib	Lib %	Dem	Dem %	Rep	Rep %	Lib	Lib %	Other	Other %	Dem	Dem %	Rep	Rep %	Lib	Lib %	Other	Other %
1	8,949	73.12%	3,290	26.88%	9,708	76.73%	2,759	21.81%	185	1.46%	8,795	69.39%	3,817	30.11%	63	0.50%	0	0.00%	9,194	72.59%	3,323	26.24%	149	1.18%	0	0.00%
2	5,402	40.68%	7,877	59.32%	7,282	51.34%	6,650	46.88%	253	1.78%	5,230	36.73%	8,940	62.79%	69	0.48%	0	0.00%	5,803	40.83%	8,194	57.65%	217	1.53%	0	0.00%
3	7,021	45.54%	8,397	54.46%	9,045	54.82%	7,095	43.00%	360	2.18%	7,168	43.06%	9,389	56.40%	89	0.53%	0	0.00%	7,605	46.00%	8,653	52.34%	275	1.66%	0	0.00%
4	10,213	76.98%	3,054	23.02%	10,782	78.63%	2,666	19.44%	264	1.93%	10,161	73.72%	3,565	25.87%	57	0.41%	0	0.00%	10,420	75.78%	3,122	22.70%	209	1.52%	0	0.00%
5	10,790	84.30%	2,010	15.70%	11,175	85.07%	1,773	13.50%	189	1.44%	10,607	80.59%	2,489	18.91%	65	0.49%	0	0.00%	10,967	83.48%	2,038	15.51%	132	1.00%	0	0.00%
6	5,025	34.51%	9,534	65.49%	7,123	45.78%	8,153	52.40%	283	1.82%	4,428	28.46%	11,050	71.03%	78	0.50%	0	0.00%	5,200	33.49%	10,071	64.85%	258	1.66%	0	0.00%
7	5,743	38.61%	9,131	61.39%	8,034	50.20%	7,696	48.09%	274	1.71%	5,565	34.55%	10,459	64.93%	83	0.52%	0	0.00%	6,169	38.46%	9,656	60.20%	215	1.34%	0	0.00%
8	9,240	55.36%	7,452	44.64%	11,280	62.31%	6,383	35.26%	440	2.43%	9,593	52.54%	8,559	46.88%	107	0.59%	0	0.00%	10,160	55.93%	7,689	42.32%	318	1.75%	0	0.00%
<b>Totals:</b>	<b>62,383</b>	<b>55.14%</b>	<b>50,745</b>	<b>44.86%</b>	<b>74,429</b>	<b>62.10%</b>	<b>43,175</b>	<b>36.02%</b>	<b>2,248</b>	<b>1.88%</b>	<b>61,547</b>	<b>51.11%</b>	<b>58,268</b>	<b>48.38%</b>	<b>611</b>	<b>0.51%</b>	<b>0</b>	<b>0.00%</b>	<b>65,518</b>	<b>54.58%</b>	<b>52,746</b>	<b>43.94%</b>	<b>1,773</b>	<b>1.48%</b>	<b>0</b>	<b>0.00%</b>

District	2008 A. G. Cooper-Crumley				2008 Comm. Ag Ansley-Troxler				2008 Comm. of Labor Donnan-Berry				2008 Lt. Governor Dalton-Pittenger-Rhodes						2008 Governor Perdue-McCrory-Munger					
	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Dem	Dem %	Rep	Rep %	Lib	Lib %	Dem	Dem %	Rep	Rep %	Lib	Lib %
1	19,921	80.38%	4,862	19.62%	18,221	73.99%	6,404	26.01%	18,433	75.07%	6,122	24.93%	18,940	76.50%	5,337	21.56%	481	1.94%	18,999	75.84%	5,509	21.99%	545	2.18%
2	15,708	54.97%	12,870	45.03%	11,231	39.99%	16,856	60.01%	11,894	42.64%	15,997	57.36%	12,808	44.88%	14,901	52.22%	828	2.90%	13,217	45.14%	15,231	52.01%	834	2.85%
3	17,902	57.87%	13,032	42.13%	13,039	42.71%	17,490	57.29%	14,037	46.47%	16,169	53.53%	15,029	48.69%	14,857	48.13%	980	3.18%	15,595	49.07%	15,131	47.61%	1,054	3.32%
4	21,495	84.03%	4,086	15.97%	19,825	78.01%	5,587	21.99%	20,144	79.63%	5,154	20.37%	20,790	81.20%	4,205	16.42%	609	2.38%	20,840	80.26%	4,381	16.87%	746	2.87%
5	24,054	88.10%	3,250	11.90%	22,737	83.49%	4,497	16.51%	23,111	85.16%	4,026	14.84%	23,638	86.49%	3,225	11.80%	466	1.71%	23,730	85.89%	3,358	12.15%	541	1.96%
6	14,594	51.13%	13,947	48.87%	9,017	31.65%	19,471	68.35%	10,192	36.53%	17,705	63.47%	11,369	39.99%	16,165	56.85%	898	3.16%	12,226	42.03%	15,845	54.47%	1,020	3.51%
7	16,109	49.27%	16,589	50.73%	9,924	30.55%	22,559	69.45%	11,460	36.00%	20,369	64.00%	12,761	39.08%	18,767	57.48%	1,123	3.44%	13,432	39.97%	18,956	56.41%	1,214	3.61%
8	22,639	64.86%	12,265	35.14%	15,822	46.10%	18,499	53.90%	17,450	51.48%	16,449	48.52%	18,763	53.97%	14,691	42.26%	1,312	3.77%	18,689	52.01%	15,888	44.21%	1,358	3.78%
<b>Totals:</b>	<b>152,422</b>	<b>65.33%</b>	<b>80,901</b>	<b>34.67%</b>	<b>119,816</b>	<b>51.83%</b>	<b>111,363</b>	<b>48.17%</b>	<b>126,721</b>	<b>55.41%</b>	<b>101,991</b>	<b>44.59%</b>	<b>134,098</b>	<b>57.57%</b>	<b>92,148</b>	<b>39.56%</b>	<b>6,697</b>	<b>2.87%</b>	<b>136,728</b>	<b>57.37%</b>	<b>94,299</b>	<b>39.57%</b>	<b>7,312</b>	<b>3.07%</b>

District	2008 President Obama-McCain-Barr								2008 US Senate Hagan-Dole						2008 Straight Party					
	Dem	Dem %	Rep	Rep %	Lib	Lib %	Other	Other %	Dem	Dem %	Rep	Rep %	Other	Other %	Dem	Dem %	Rep	Rep %	Lib.	Lib%
1	19,691	77.25%	5,667	22.23%	92	0.36%	39	0.15%	19,575	77.92%	5,093	20.27%	454	1.81%	15,267	83.34%	2,975	16.24%	78	0.43%
2	13,492	45.72%	15,768	53.43%	153	0.52%	99	0.34%	14,544	49.71%	13,859	47.37%	855	2.92%	7,911	49.35%	8,002	49.92%	118	0.74%
3	16,396	51.01%	15,425	47.99%	206	0.64%	116	0.36%	17,443	54.75%	13,522	42.44%	894	2.81%	9,121	53.36%	7,817	45.73%	156	0.91%
4	21,760	82.43%	4,501	17.05%	79	0.30%	57	0.22%	21,412	82.38%	4,042	15.55%	538	2.07%	16,171	87.19%	2,277	12.28%	98	0.53%
5	24,571	87.31%	3,449	12.26%	77	0.27%	44	0.16%	24,105	87.09%	3,139	11.34%	435	1.57%	19,328	91.49%	1,717	8.13%	80	0.38%
6	11,248	38.35%	17,767	60.58%	218	0.74%	95	0.32%	12,859	44.14%	15,273	52.43%	998	3.43%	6,486	42.12%	8,771	56.96%	142	0.92%
7	13,680	40.38%	19,889	58.70%	223	0.66%	89	0.26%	15,298	45.42%	17,366	51.56%	1,014	3.01%	6,707	39.75%	10,025	59.42%	140	0.83%
8	20,935	57.49%	15,122	41.52%	245	0.67%	116	0.32%	22,447	62.24%	12,745	35.34%	875	2.43%	10,813	61.47%	6,618	37.62%	159	0.90%
<b>Totals:</b>	<b>141,773</b>	<b>58.75%</b>	<b>97,588</b>	<b>40.44%</b>	<b>1,293</b>	<b>0.54%</b>	<b>655</b>	<b>0.27%</b>	<b>147,683</b>	<b>61.85%</b>	<b>85,039</b>	<b>35.61%</b>	<b>6,063</b>	<b>2.54%</b>	<b>91,804</b>	<b>65.12%</b>	<b>48,202</b>	<b>34.19%</b>	<b>971</b>	<b>0.69%</b>

District	2010 Straight Party						2010 US Senate Marshall-Burr					
	Dem	Dem %	Rep	Rep %	Lib.	Lib %	Dem	Dem %	Rep	Rep %	Other	Other %
1	5,118	72.95%	1,870	26.65%	28	0.40%	8,832	69.64%	3,662	28.87%	189	1.49%
2	2,884	36.20%	5,053	63.42%	30	0.38%	6,224	35.57%	10,887	62.21%	388	2.22%
3	3,640	40.70%	5,261	58.82%	43	0.48%	7,073	39.05%	10,691	59.02%	350	1.93%
4	6,670	81.97%	1,430	17.57%	37	0.45%	10,357	77.74%	2,768	20.78%	198	1.49%
5	7,636	86.90%	1,119	12.73%	32	0.36%	10,963	82.40%	2,196	16.51%	145	1.09%
6	3,038	32.36%	6,310	67.21%	40	0.43%	5,783	32.31%	11,753	65.67%	362	2.02%
7	3,087	30.01%	7,154	69.54%	47	0.46%	6,384	30.29%	14,202	67.39%	488	2.32%
8	4,373	48.58%	4,594	51.04%	34	0.38%	9,525	44.45%	11,427	53.32%	477	2.23%
<b>Totals:</b>	<b>36,446</b>	<b>52.42%</b>	<b>32,791</b>	<b>47.16%</b>	<b>291</b>	<b>0.42%</b>	<b>65,141</b>	<b>48.14%</b>	<b>67,586</b>	<b>49.94%</b>	<b>2,597</b>	<b>1.92%</b>

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 796  
PROPOSED SENATE COMMITTEE SUBSTITUTE H796-CSRN-30 [v.2]

6/14/2011 9:55:04 PM

Short Title: Hours of Sale for Alcoholic Beverages.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE HOURS OF SALES OF ALCOHOLIC BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1004 reads as rewritten:

"§ 18B-1004. Hours for sale and consumption.

(a) ~~Hours for On-Premise Locations. – Except as otherwise provided in this section, it~~ shall be unlawful for a permittee holding on-premise permits for the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M. ~~A.M., in any place that has been issued a permit under G.S. 18B-1001. It shall be~~ unlawful for any person to sell or consume alcoholic beverages on any premises where on-premise permits are issued for the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages from the time at which sale or consumption must cease on Sunday morning until 11:00 A.M. on that day.

(a1) ~~Hours for Off-Premise Locations. – It shall be unlawful for a permittee holding only off-premise permits allowing the sale of sell malt beverages, unfortified wine, or fortified wine, to sell malt beverages, unfortified wine, or fortified wine between the hours of 2:00 A.M. and 5:00 A.M. on Monday through Saturday, and between the hours of 2:00 A.M. and 11:00 A.M. on Sunday.~~

(b) Repealed by Session Laws 1991, c. 689, s. 310.

(e) ~~Sunday Hours. – It shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day.~~

(d) ~~Local Option. – A city may adopt an ordinance prohibiting in the city the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. A county may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. Neither a city nor a county, however, may prohibit those sales in establishments having brown bagging or mixed beverages permits.~~



1 (e) This section does not prohibit at any time the wholesale delivery and sale of  
2 unfortified wine, fortified wine, and malt beverages to retailers issued permits pursuant to G.S.  
3 18B-1001 or G.S. 18B-1002(a)(2) or (5)."

4 SECTION 2. G.S. 18B-1006(q) is repealed.

5 SECTION 3. This act is effective when it becomes law. Prosecutions for offenses  
6 committed before the effective date of this act are not abated or affected by this act, and the  
7 statutes that would be applicable but for this act remain applicable to those prosecutions.



# HOUSE BILL 796: Hours of Sale for Alcoholic Beverages

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. Moffitt  
**Analysis of:** PCS to First Edition  
H796-CSR-30

**Date:** June 15, 2011  
**Prepared by:** Brad Krehely  
Committee Counsel

**SUMMARY:** *The Proposed Committee Substitute for House Bill 796 would amend the laws governing the hours of sale for alcoholic beverages.*

**CURRENT LAW:** Under current law, the following provisions apply to the hours for sale and consumption of alcohol:

- **Hours Generally-** It shall be unlawful to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M.
- **Sunday Hours-** It shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until noon on that day.

**BILL ANALYSIS:** The PCS for House Bill 796 would change the law governing the sale and consumption of alcohol to provide:

- **Hours for On –Premise Locations-**
  - Unlawful to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between 2:30 A.M. and 7:00 A.M.
  - Unlawful to sell or consume alcoholic beverages from the time at which sale or consumption must cease on Sunday morning until 11:00 A.M. on that day.
- **Hours for Off-Premise Locations-**
  - Unlawful to sell between the hours of 2 AM and 5 AM on Mondays through Saturday and between 2 AM and 11AM on Sunday.

**EFFECTIVE DATE:** This act is effective when it becomes law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

H796-SMRN-72(CSRN-30) v3

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 618\*  
Committee Substitute Favorable 5/17/11  
Committee Substitute #2 Favorable 6/7/11  
Fourth Edition Engrossed 6/8/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H618-CSRW-66 [v.2]

6/14/2011 6:59:58 PM

Short Title: Streamline Oversight/DHHS Service Providers.

(Public)

Sponsors:

Referred to:

April 6, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO STREAMLINE DUPLICATE OVERSIGHT OF CERTAIN DHHS SERVICE  
3 PROVIDERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) In order to minimize the creation of unfunded mandates, the  
6 Secretary of the Department of Health and Human Services (DHHS) shall direct a rate-setting  
7 memorandum be prepared for every change or adjustment made by DHHS in service definition,  
8 policy, rule, or provider requirements that impacts services provided in accordance with this  
9 act.

10 SECTION 1.(b) The Secretary shall dissolve North Carolina Treatment Outcomes  
11 Program Performance System (NC-TOPPS) Advisory Committee and establish a task force  
12 made up of division staff, Behavioral Health Managed Care Organizations, consumers, and  
13 providers to objectively evaluate the North Carolina Treatment Outcomes Program  
14 Performance System (NC-TOPPS) to improve the way data is accessible across services rather  
15 than site-specific to reflect valid comparisons of program outcomes by August 1, 2011.

16 SECTION 1.(c) The Secretary shall allow private sector development and  
17 implementation of an Internet-based, secure, and consolidated data warehouse and archive for  
18 maintaining corporate, fiscal, and administrative records of providers by September 1, 2011.  
19 This data warehouse shall not be used to store consumer records. Use of the consolidated data  
20 warehouse by the service provider agency is optional. Providers that choose to utilize the data  
21 warehouse shall ensure that the data is up to date and accessible to the regulatory body. A  
22 provider shall submit any revised, updated information to the data warehouse within 10  
23 business days after receiving the request. The regulatory body that conducts administrative  
24 monitoring must use the data warehouse for document requests. If the information provided to  
25 the regulatory body is not current or is unavailable from the data warehouse and archive, the  
26 regulatory body may contact the provider directly. A provider that fails to comply with the  
27 regulatory body's requested documents may be subject to an on-site visit to ensure compliance.  
28 Access to the data warehouse must be provided without charge to the regulatory body under  
29 this section.





1           **SECTION 2.** The Secretary shall review on an annual basis updates to policy made  
2 by the following national accrediting bodies: Council on Accreditation (COA), CARF  
3 International, Council on Quality and Leadership (CQL), the Joint Commission, NCQA, and  
4 URAC and shall take actions necessary to ensure that DHHS policy or procedural requirements  
5 do not duplicate the updated accreditation standards.

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

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 887  
Committee Substitute Favorable 6/2/11

Short Title: Zoning/Temp. Family Health Care Structures.

(Public)

Sponsors:

Referred to:

May 4, 2011

A BILL TO BE ENTITLED

AN ACT RELATING TO ZONING PROVISIONS FOR TEMPORARY HEALTH CARE STRUCTURES.

The General Assembly of North Carolina enacts:

SECTION 1. Part 3 of Article 18 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-341.3. Zoning of temporary health care structures.**

A county exercising powers under this Article shall comply with G.S. 160A-383.5."

SECTION 2. Part 3 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-383.5. Zoning of temporary health care structures.**

(a) The following definitions apply in this section:

- (1) Activities of daily living. – Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- (2) Caregiver. – An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.
- (3) First or second degree relative. – A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece, and includes half, step, and in-law relationships.
- (4) Mentally or physically impaired person. – A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.
- (5) Temporary family health care structure. – A transportable residential structure, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person, that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

(b) A city shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by



1 the caregiver as the caregiver's residence as a permitted accessory use in any single-family  
2 residential zoning district on lots zoned for single-family detached dwellings.

3 (c) A city shall consider a temporary family health care structure used by an individual  
4 who is the named legal guardian of the mentally or physically impaired person a permitted  
5 accessory use in any single-family residential zoning district on lots zoned for single-family  
6 detached dwellings in accordance with this section if the temporary family health care structure  
7 is placed on the property of the residence of the individual and is used to provide care for the  
8 mentally or physically impaired person.

9 (d) Only one temporary family health care structure shall be allowed on a lot or parcel  
10 of land. The temporary family health care structures under subsections (b) and (c) of this  
11 section shall not require a special use permit or be subjected to any other local zoning  
12 requirements beyond those imposed upon other authorized accessory use structures, except as  
13 otherwise provided in this section. Such temporary family health care structures shall comply  
14 with all setback requirements that apply to the primary structure and with any maximum floor  
15 area ratio limitations that may apply to the primary structure.

16 (e) Any person proposing to install a temporary family health care structure shall first  
17 obtain a permit from the city. The city may charge a fee of up to one hundred dollars (\$100.00)  
18 for the initial permit and an annual renewal fee of up to fifty dollars (\$50.00). The city may not  
19 withhold a permit if the applicant provides sufficient proof of compliance with this section. The  
20 city may require that the applicant provide evidence of compliance with this section on an  
21 annual basis as long as the temporary family health care structure remains on the property. The  
22 evidence may involve the inspection by the city of the temporary family health care structure at  
23 reasonable times convenient to the caregiver, not limited to any annual compliance  
24 confirmation, and annual renewal of the doctor's certification.

25 (f) Notwithstanding subsection (i) of this section, any temporary family health care  
26 structure installed under this section may be required to connect to any water, sewer, and  
27 electric utilities serving the property and shall comply with all applicable State law, local  
28 ordinances, and other requirements, including Part 5 of this Article, as if the temporary family  
29 health care structure were permanent real property.

30 (g) No signage advertising or otherwise promoting the existence of the temporary  
31 health care structure shall be permitted either on the exterior of the temporary family health  
32 care structure or elsewhere on the property.

33 (h) Any temporary family health care structure installed pursuant to this section shall be  
34 removed within 60 days in which the mentally or physically impaired person is no longer  
35 receiving or is no longer in need of the assistance provided for in this section. If the temporary  
36 family health care structure is needed for another mentally or physically impaired person, the  
37 temporary family health care structure may continue to be used, or may be reinstated on the  
38 property within 60 days of its removal, as applicable.

39 (i) The city may revoke the permit granted pursuant to subsection (e) of this section if  
40 the permit holder violates any provision of this section or G.S. 160A-202. The city may seek  
41 injunctive relief or other appropriate actions or proceedings to ensure compliance with this  
42 section or G.S. 160A-202.

43 (j) Temporary family health care structures shall be treated as tangible personal  
44 property for purposes of taxation."

45 **SECTION 3.** G.S. 130A-250 is amended by adding a new subdivision to read:

46 "(14) Temporary family health care structures under G.S. 153A-341.1 or  
47 G.S. 160A-383.5."

48 **SECTION 4.** G.S. 131D-2.1(10) reads as rewritten:

49 "(10) Multiunit assisted housing with services. – An assisted living residence in  
50 which hands-on personal care services and nursing services which are  
51 arranged by housing management are provided by a licensed home care or

1 hospice agency through an individualized written care plan. The housing  
2 management has a financial interest or financial affiliation or formal written  
3 agreement which makes personal care services accessible and available  
4 through at least one licensed home care or hospice agency. The resident has  
5 a choice of any provider, and the housing management may not combine  
6 charges for housing and personal care services. All residents, or their  
7 compensatory agents, must be capable, through informed consent, of  
8 entering into a contract and must not be in need of 24-hour supervision.  
9 Assistance with self-administration of medications may be provided by  
10 appropriately trained staff when delegated by a licensed nurse according to  
11 the home care agency's established plan of care. Multiunit assisted housing  
12 with services programs are required to register annually with the Division of  
13 Health Service Regulation. Multiunit assisted housing with services  
14 programs are required to provide a disclosure statement to the Division of  
15 Health Service Regulation. The disclosure statement is required to be a part  
16 of the annual rental contract that includes a description of the following  
17 requirements:

- 18 a. Emergency response system;
- 19 b. Charges for services offered;
- 20 c. Limitations of tenancy;
- 21 d. Limitations of services;
- 22 e. Resident responsibilities;
- 23 f. Financial/legal relationship between housing management and home  
24 care or hospice agencies;
- 25 g. A listing of all home care or hospice agencies and other community  
26 services in the area;
- 27 h. An appeals process; and
- 28 i. Procedures for required initial and annual resident screening and  
29 referrals for services.

30 Continuing care retirement communities, subject to regulation by the  
31 Department of Insurance under Chapter 58 of the General Statutes, and  
32 temporary family health care structures, as defined in G.S. 160A-383.5, are  
33 exempt from the regulatory requirements for multiunit assisted housing with  
34 services programs."

35 **SECTION 5.** G.S. 160A-442(2) reads as rewritten:

36 "(2) "Dwelling" means any building, structure, manufactured home or mobile  
37 home, or part thereof, used and occupied for human habitation or intended to  
38 be so used, and includes any outhouses and appurtenances belonging thereto  
39 or usually enjoyed therewith, except that it does not include any  
40 manufactured home or mobile home, which is used solely for a seasonal  
41 vacation purpose. Temporary family health care structures, as defined in  
42 G.S. 160A-383.5, shall be considered dwellings for purposes of this Part,  
43 provided that any ordinance provision requiring minimum square footage  
44 shall not apply to such structures."

45 **SECTION 6.** If any provision of this act or its application is held invalid, the  
46 invalidity does not affect other provisions or applications of this act that can be given effect  
47 without the invalid provisions or application, and to this end the provisions of this act are  
48 severable.

49 **SECTION 7.** This act becomes effective July 1, 2011, and applies as to temporary  
50 family health care structures existing on or after that date. No county or city may impose a fee

1 as authorized by Section 1 of this act on any temporary family health care structure existing on  
2 that date.



# HOUSE BILL 887: Zoning/Temp. Family Health Care Structures

2011-2012 General Assembly

**Committee:** House Finance  
**Introduced by:** Reps. Moffitt, Howard, Setzer  
**Analysis of:** Second Edition

**Date:** June 8, 2011  
**Prepared by:** Trina Griffin  
Committee Counsel

**SUMMARY:** *House Bill 887 would exempt temporary family health care structures from zoning requirements applicable to single family residential zoning by counties and cities and would require issuance of a permit for installation.*

**CURRENT LAW:** Counties and cities have the authority to zone as part the jurisdiction's land use planning authority. Zoning ordinances often limit a property to residential, agricultural, industrial, or commercial uses, and places constraints on those uses. Application can be made to the county or city with jurisdiction for an exemption to the zoning ordinance for a specific use.

**BILL ANALYSIS:** House Bill 887 would exempt from the zoning authority of cities and counties "temporary family health care structures," when those structures are within an area zoned single-family residential.

A temporary family health care structure is a transportable residential structure, providing an environment facilitating a caregiver's provision of care that meets all of the following requirements:

1. Is primarily assembled at a location other than the site of installation.
2. Is limited to 1 occupant who is mentally or physically impaired (an individual who requires assistance with 2 of more personal functions essential for health and well-being).
3. Has no more than 300 gross square feet.
4. Complies with the State Building Code.

**Limitations.** –

- Only one temporary family health care structure could be placed on a property.
- No signage advertising or otherwise promoting the existence of the structure permitted.

**Requirements.** –

- A person must obtain a permit in order to install a structure on the person's property. A city or county could charge up to \$100 for the initial permit, and up to \$50 for an annual renewal.
- A county or city may require that the structure be connected to water, sewer or electric utilities serving the property.
- The structure must comply with building inspections and State Building Code.
- The structure must comply with all setback requirements of the primary residence.
- The structure must be removed within 60 days of it no longer being needed. It could be returned to the property for re-installation within 60 days of removal if it becomes needed for a subsequent mentally or physically impaired person.

**Exemptions.** – The structures are exempt from:

- The regulation of food and lodging provisions in Part 6 of Article 8 of Chapter 130A.
- Licensure of adult care homes.

**EFFECTIVE DATE:** The bill would become effective July 1, 2011 and apply to temporary family health care structures existing at that time, except that the permit fee may not be charged for existing structures.

*Erika Churchill, counsel to House Government, substantially contributed to this summary.*

H887-SMSV-69(e2) v1

Research Division

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

3

HOUSE BILL 720  
Committee Substitute Favorable 6/7/11  
Third Edition Engrossed 6/8/11

Short Title: School & Teacher Paperwork Reduction Act.

(Public)

Sponsors:

Referred to:

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE SCHOOL AND TEACHER PAPERWORK REDUCTION ACT.  
3 The General Assembly of North Carolina enacts:

4  
5 **TITLE OF ACT**

6 **SECTION 1.** This act shall be known as the "School and Teacher Paperwork  
7 Reduction Act."

8  
9 **REDUCTION OF PAPERWORK BY THE STATE BOARD OF EDUCATION**

10 **SECTION 2.(a)** G.S. 115C-12(19) reads as rewritten:

11 "**§ 115C-12. Powers and duties of the Board generally.**

12 The general supervision and administration of the free public school system shall be vested  
13 in the State Board of Education. The State Board of Education shall establish policy for the  
14 system of free public schools, subject to laws enacted by the General Assembly. The powers  
15 and duties of the State Board of Education are defined as follows:

16 ...  
17 (19) Duty to Identify Required Reports and to Eliminate Unnecessary Reports  
18 and Paperwork. – Prior to the beginning of each school year, the State Board  
19 of Education shall identify all reports that are required at the State level for  
20 the school year.

21 The State Board of Education shall adopt policies to ensure that local  
22 school administrative units are not required by the State Board of Education,  
23 the State Superintendent, or the Department of Public Instruction staff to (i)  
24 provide information that is already available on the student information  
25 management system or housed within the Department of Public Instruction;  
26 (ii) provide the same written information more than once during a school  
27 year unless the information has changed during the ensuing period; or (iii)  
28 complete forms, for children with disabilities, that are not necessary to  
29 ensure compliance with the federal Individuals with Disabilities Education  
30 Act (IDEA). Notwithstanding the foregoing, the State Board may require  
31 information available on its student information management system or  
32 require the same information twice if the State Board can demonstrate a  
33 compelling need and can demonstrate there is not a more expeditious  
34 manner of getting the information.



\* H 7 2 0 - V - 3 \*

1           The State Board shall permit schools and local school administrative  
2           units to submit all reports to the Department of Public Instruction  
3           electronically.

4           The State Board of Education, in collaboration with the education  
5           roundtables within the Department of Public Instruction, shall consolidate all  
6           plans that affect the school community, including school improvement plans,  
7           school safety/discipline plans, and others. The consolidated plan shall be  
8           posted on each school's Web site for easy access by the public and by school  
9           personnel.

10           The State Board shall report to the Joint Legislative Education Oversight  
11           Committee by November 15 of each year on the reports it has consolidated  
12           or eliminated for the upcoming school year."

13           **SECTION 2.(b)** G.S. 115C-12 is amended by adding a new subdivision to read:

14           "(19a) Duty to Consolidate Applications for State Funding. – The State Board of  
15           Education shall adopt policies to streamline the process for local school  
16           administrative units applying for State funding. The policies shall provide  
17           for a consolidation of all such applications."

## 19           **REDUCTION OF PAPERWORK BY LOCAL BOARDS OF EDUCATION**

20           **SECTION 3.(a)** G.S. 115C-47(18) reads as rewritten:

21           "(18) To Make Rules Concerning the Conduct and Duties of Personnel. – Local  
22           boards of education, upon the recommendation of the superintendent, shall  
23           have full power to make all just and needful rules and regulations governing  
24           the conduct of teachers, principals, and supervisors, the kind of reports they  
25           shall make, and their duties in the care of school property.

26           Prior to the beginning of each school year, each local board of education  
27           shall identify all reports, including local school required reports, that are  
28           required at the local level for the school year and shall, to the maximum  
29           extent possible, eliminate any duplicate or obsolete reporting requirements.  
30           requirements and consolidate remaining reporting requirements. No  
31           additional reports shall be required at the local level after the beginning of  
32           the school year without the prior approval of the local board of education.

33           Prior to the beginning of each school year, each local board of education  
34           shall also identify software protocols such as NC Wise that could be used to  
35           minimize repetitious data entry by teachers and shall make them available to  
36           teachers.

37           Each local board of education shall appoint a person or establish a local  
38           paperwork control committee to monitor all reports and other paperwork  
39           required of teachers by the central office-office and to monitor teachers'  
40           access to software protocols that minimize repetitious data entry."

41           **SECTION 3.(b)** G.S. 115C-105.27 is amended by adding a new subsection to read:

42           "(f) If a local board of education finds that a school improvement plan adequately covers  
43           another plan that the local school administrative unit is otherwise required to prepare, the local  
44           school administrative unit shall not be required to prepare an additional plan on the matter."

## 46           **REDUCTION OF PAPERWORK BY THE DEPARTMENT OF HEALTH AND** 47           **HUMAN SERVICES**

48           **SECTION 4.** The Department of Health and Human Services, in consultation with  
49 the More at Four Program and the Smart Start Program, shall review all reporting requirements  
50 imposed on the public schools relating to the operations of the programs and child care  
51 regulation requirements. The Department of Health and Human Services shall reduce the



1 frequency of reporting as appropriate, based upon the review and recommendation of the  
2 parties involved.

3 The Department of Health and Human Services shall report to the General  
4 Assembly on its implementation of this section by October 1, 2011.

## 6 ELIMINATION OF TECHNOLOGY REPORTS

7 SECTION 5.(a) G.S. 115C-102.6C is repealed.

8 SECTION 5.(b) G.S. 115C-102.6D(d) is repealed.

9 SECTION 5.(c) G.S. 115C-102.7 reads as rewritten:

10 "**§ 115C-102.7. Monitoring and evaluation of State and local school system technology  
11 plans; reports.**

12 (a) The Department of Public Instruction shall monitor and evaluate the development  
13 and implementation of the State and local school system technology plans. technology plan.  
14 The evaluation shall consider the effects of technology on student learning, the effects of  
15 technology on students' workforce readiness, the effects of technology on teacher productivity,  
16 and the cost-effectiveness of the technology.

17 (a1) Repealed by Session Laws 1997-18, s. 15(k).

18 (b) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009.

19 ~~(c) The Department of Public Instruction shall randomly check local school system  
20 technology plans to ensure that local school administrative units are implementing their plans  
21 as approved. The Department shall report to the State Board of Education on which local  
22 school administrative units are not complying with their plans. The report shall include the  
23 reasons these local school administrative units are out of compliance and a recommended plan  
24 of action to support each of these local school administrative units in carrying out their plans."~~

## 26 REPEAL OF PROVISIONS PERMITTING THE PREPAYMENT OF TEACHERS

27 SECTION 6. G.S. 115C-302.1(b) reads as rewritten:

28 "(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10 months.  
29 State-allotted months of employment for vocational education to local boards shall be used for  
30 the employment of teachers of vocational and technical education for a term of employment to  
31 be determined by the local boards of education. However, local boards shall not reduce the  
32 term of employment for any vocational agriculture teacher personnel position that was 12  
33 calendar months for the 1982-83 school year for any school year thereafter. In addition, local  
34 boards shall not reduce the term of employment for any vocational agriculture teacher  
35 personnel position that was 12 calendar months for the 2003-2004 school year for any school  
36 year thereafter.

37 Each local board of education shall establish a set date on which monthly salary payments  
38 to State-allotted teachers shall be made. This set pay date may differ from the end of the month  
39 of service. The daily rate of pay for teachers shall equal midway between one twenty-first and  
40 one twenty-second of the monthly rate of pay. Except for teachers employed in a year-round  
41 school or paid in accordance with a year-round calendar, or both, the initial pay date for  
42 teachers shall be no later than August 31 and shall include a full monthly payment. Subsequent  
43 pay dates shall be spaced no more than one month apart and shall include a full monthly  
44 payment.

45 ~~Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher who  
46 fails to attend scheduled workdays or who has not worked the number of days for which the  
47 teacher has been paid and who resigns, is dismissed, or whose contract is not renewed shall  
48 repay to the local board any salary payments received for days not yet worked. A teacher who  
49 has been prepaid and continues to be employed by a local board but fails to attend scheduled  
50 workdays may be subject to dismissal under G.S. 115C-325 or other appropriate discipline.~~  
51 Teachers shall be paid only for the days employed as of the set pay date. Payment for a full

1 month when days employed are less than a full month is prohibited, as this constitutes  
2 prepayment.

3 Any individual teacher who is not employed in a year-round school may be paid in 12  
4 monthly installments if the teacher so requests on or before the first day of the school year. The  
5 request shall be filed in the local school administrative unit which employs the teacher. The  
6 payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the  
7 teacher's annual salary nor in any other way alter the contract made between the teacher and the  
8 local school administrative unit. Teachers employed for a period of less than 10 months shall  
9 not receive their salaries in 12 installments.

10 Notwithstanding this subsection, the term "daily rate of pay" for the purpose of  
11 G.S. 115C-12(8) or for any other law or policy governing pay or benefits based on the teacher  
12 salary schedule shall not exceed one twenty-second of a teacher's monthly rate of pay."  
13

#### 14 BUDGET CONTINGENCY PROVISIONS

15 **SECTION 6.5.(a)** If House Bill 200, 2011 Regular Session, becomes law, then  
16 Sections 1 through 6 of this act are repealed.

17 **SECTION 6.5.(b)** If House Bill 200, 2011 Regular Session, becomes law, then  
18 G.S. 115C-12(19) reads as rewritten:

19 "**§ 115C-12. Powers and duties of the Board generally.**

20 The general supervision and administration of the free public school system shall be vested  
21 in the State Board of Education. The State Board of Education shall establish policy for the  
22 system of free public schools, subject to laws enacted by the General Assembly. The powers  
23 and duties of the State Board of Education are defined as follows:  
24

- 25 ...  
26 (19) Duty to Identify Required Reports and to Eliminate Unnecessary Reports  
27 and Paperwork. – Prior to the beginning of each school year, the State Board  
28 of Education shall identify all reports that are required at the State level for  
29 the school year.

30 The State Board of Education shall adopt policies to ensure that local  
31 school administrative units are not required by the State Board of Education,  
32 the State Superintendent, or the Department of Public Instruction staff to (i)  
33 provide information that is already available on the student information  
34 management system or housed within the Department of Public Instruction;  
35 (ii) provide the same written information more than once during a school  
36 year unless the information has changed during the ensuing period; or (iii)  
37 complete forms, for children with disabilities, that are not necessary to  
38 ensure compliance with the federal Individuals with Disabilities Education  
39 Act (IDEA). Notwithstanding the foregoing, the State Board may require  
40 information available on its student information management system or  
41 require the same information twice if the State Board can demonstrate a  
42 compelling need and can demonstrate there is not a more expeditious  
43 manner of getting the information.

44 The State Board shall permit schools and local boards of education to  
45 submit all reports to the Department of Public Instruction electronically.

46 The State Board of Education, in collaboration with the education  
47 roundtables within the Department of Public Instruction, shall consolidate all  
48 plans that affect the school community. The consolidated plan shall be  
49 posted on each school's Web site for easy access by the public and by school  
personnel.

1                   The State Board shall report to the Joint Legislative Education Oversight  
2                   Committee by November 15 of each year on the reports it has consolidated  
3                   or eliminated for the upcoming school year."

4                   **SECTION 6.5(c)** If House Bill 200, 2011 Regular Session, becomes law, then  
5 G.S. 115C-12 is amended by adding a new subdivision to read:

6                   "(19a) Duty to Consolidate Applications for State Funding. – The State Board of  
7                   Education shall adopt policies to streamline the process for local school  
8                   administrative units applying for State funding. The policies shall provide  
9                   for a consolidation of all such applications."

10                   **SECTION 6.5(d)** If House Bill 200, 2011 Regular Session, becomes law, then  
11 G.S. 115C-47(18) reads as rewritten:

12                   "(18) To Make Rules Concerning the Conduct and Duties of Personnel. – Local  
13                   boards of education, upon the recommendation of the superintendent, shall  
14                   have full power to make all just and needful rules and regulations governing  
15                   the conduct of teachers, principals, and supervisors, the kind of reports they  
16                   shall make, and their duties in the care of school property.

17                   Prior to the beginning of each school year, each local board of education  
18                   shall identify all reports, including local school required reports, that are  
19                   required at the local level for the school year and shall, to the maximum  
20                   extent possible, eliminate any duplicate or obsolete reporting ~~requirements.~~  
21                   requirements and consolidate remaining reporting requirements. No  
22                   additional reports shall be required at the local level after the beginning of  
23                   the school year without the prior approval of the local board of education.

24                   Prior to the beginning of each school year, each local board of education  
25                   shall also identify software protocols such as NC Wise that could be used to  
26                   minimize repetitious data entry by teachers and shall make them available to  
27                   teachers.

28                   Each local board of education shall appoint a person or establish a local  
29                   paperwork control committee to monitor all reports and other paperwork  
30                   required of teachers by the central ~~office~~ office and to monitor teachers'  
31                   access to software protocols that minimize repetitious data entry."

32                   **SECTION 6.5.(e)** If House Bill 200, 2011 Regular Session, becomes law, then  
33 G.S. 115C-302.1(b) reads as rewritten:

34                   "(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10 months.  
35                   State-allotted months of employment for vocational education to local boards shall be used for  
36                   the employment of teachers of vocational and technical education for a term of employment to  
37                   be determined by the local boards of education. However, local boards shall not reduce the  
38                   term of employment for any vocational agriculture teacher personnel position that was 12  
39                   calendar months for the 1982-83 school year for any school year thereafter. In addition, local  
40                   boards shall not reduce the term of employment for any vocational agriculture teacher  
41                   personnel position that was 12 calendar months for the 2003-2004 school year for any school  
42                   year thereafter.

43                   Each local board of education shall establish a set date on which monthly salary payments  
44                   to State-allotted teachers shall be made. This set pay date may differ from the end of the month  
45                   of service. The daily rate of pay for teachers shall equal midway between one twenty-first and  
46                   one twenty-second of the monthly rate of pay. Except for teachers employed in a year-round  
47                   school or paid in accordance with a year-round calendar, or both, the initial pay date for  
48                   teachers shall be no later than August 31 and shall include a full monthly payment. Subsequent  
49                   pay dates shall be spaced no more than one month apart and shall include a full monthly  
50                   payment.

1 ~~Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher who~~  
2 ~~fails to attend scheduled workdays or who has not worked the number of days for which the~~  
3 ~~teacher has been paid and who resigns, is dismissed, or whose contract is not renewed shall~~  
4 ~~repay to the local board any salary payments received for days not yet worked. A teacher who~~  
5 ~~has been prepaid and continues to be employed by a local board but fails to attend scheduled~~  
6 ~~workdays may be subject to dismissal under G.S. 115C-325 or other appropriate discipline.~~  
7 Teachers shall only be paid for the days employed as of the set pay date. Payment for a full  
8 month when days employed are less than a full month is prohibited, as this constitutes  
9 prepayment.

10 Any individual teacher who is not employed in a year-round school may be paid in 12  
11 monthly installments if the teacher so requests on or before the first day of the school year. The  
12 request shall be filed in the local school administrative unit which employs the teacher. The  
13 payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the  
14 teacher's annual salary nor in any other way alter the contract made between the teacher and the  
15 local school administrative unit. Teachers employed for a period of less than 10 months shall  
16 not receive their salaries in 12 installments.

17 Notwithstanding this subsection, the term "daily rate of pay" for the purpose of  
18 G.S. 115C-12(8) or for any other law or policy governing pay or benefits based on the teacher  
19 salary schedule shall not exceed one twenty-second of a teacher's monthly rate of pay."  
20

#### 21 **EFFECTIVE DATE**

22 **SECTION 7.** This act is effective when it becomes law and applies beginning with  
23 the 2011-2012 school year.



# HOUSE BILL 720: School & Teacher Paperwork Reduction Act

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 15, 2011
<b>Introduced by:</b>	Reps. Murry, Blust, Brandon	<b>Prepared by:</b>	Patsy Pierce
<b>Analysis of:</b>	Third Edition		Legislative Analyst

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**SUMMARY:** *House Bill 720 would amend statutes to consolidate and reduce reporting and paperwork requirements for the State Board of Education and local boards and direct the Department of Health and Human Services to do the same with Smart Start and More at Four reporting requirements. The bill would repeal local school technology plan development and reporting requirements. The bill would require teachers be paid for days worked as of the set pay date, rather than prepaid for days not yet worked. Section 6 of the bill, "Budget Contingency Provisions," would make conforming changes if House Bill 200, 2011 Regular Session, becomes law.*

## CURRENT LAW/BILL ANALYSIS:

**Section 2.** G.S. 115C-12(19) details the powers and duties of the State Board of Education (SBE) to identify required reports each year and ensure that local school administrative units, the State Superintendent, or the Department of Public Instruction (DPI) do not have to provide information that is: (1) already available on the student information management system or housed at DPI; (2) has already been provided, unless the information has changed; or, (3) not federally required for children with disabilities.

House Bill 720 would require the SBE to: permit local school administrative units to electronically submit reports; collaborate with DPI's education roundtables to consolidate reporting requirements; and, post the consolidated report on each school's website for school personnel and public access. A new section to this statute would be added requiring the SBE to adopt policies to streamline the process for local school administrative units to apply for state funding and to consolidate all such applications.

**Section 3.** G.S. 115C-47(18) details the powers and duties of local boards of education including establishing rules governing personnel conduct and eliminating duplicate or obsolete reporting requirements.

House Bill 720 would require local boards of education to consolidate any remaining reporting requirements, identify software that could be used to minimize duplicated data entry, and monitor teachers' access to this software.

**Section 4.** House Bill 720 would require the Department of Health and Human Services (DHHS), in consultation with Smart Start and More at Four, to review reporting requirements imposed on the public schools, and reduce these requirements as appropriate. DHHS would report to the General Assembly by October 1, 2011 regarding the implementation of this section.

**Section 5.** G.S. 115C-102.6(c) provides that local boards shall develop a technology plan and submit it to the Department of Public Instruction (DPI) for approval. G.S. 115C-102.6D(d) stipulates that the SBE must approve the local technology plan before technology-related funds may be accessed.

House Bill 720 would repeal both of these statutes.

# House Bill 720

Page 2

G.S. 115C-102.7 states that DPI shall monitor and evaluate implementation of the State and local technology plans, considering the impact on student learning, workforce readiness, teacher productivity, and cost-effectiveness of technology. DPI is required to randomly check local technology plans to see if they are being implemented as approved and report to the SBE status of compliance and recommended plans of action.

House Bill 720 would delete the requirement for DPI monitoring and reporting on implementation of local technology plans.

**Section 6.** G.S.115C-302.1(b) details how teachers are paid. Teachers may be prepaid on the monthly pay date for days not yet worked, but if they fail to attend scheduled workdays, do not work the number of days for which they have been paid and resign, are dismissed, or do not have a renewed contract, they must repay the local board any salary received for days not yet worked. Teachers who have been prepaid and continue to work for a local board but fail to attend scheduled work days are subject to dismissal.

House Bill 720 would remove the pre-payment language. Teachers would only be paid for days employed as of the set pay date. Payment for a full month when days employed are less than a full month would be prohibited.

**Section 6.5 (a-e)** would make conforming changes to House Bill 720 if House Bill 200, 2011 Regular Session, (Appropriations Act of 2011), becomes law to reflect statutes amended or repealed by HB 200. School Improvement Plans, Local Safe School Plans, reduplication of More and Four and Smart Start reports, and Local School Technology Plans are repealed in House Bill 200.

**EFFECTIVE DATE:** This act is effective when it becomes law and applies beginning with the 2011-2012 school year.

**BACKGROUND:** The June, 2010 report of the *North Carolina Teacher Working Conditions* survey found from approximately 106,000 respondents that, "teachers need time to work with students, learn from each other, analyze student data, and devise instructional strategies to ensure that all students learn." The report continued by saying, "yet finding time, particularly during the school day, has been identified as one of the most significant working conditions challenges since the survey was initiated in 2002." About half of educators agreed that efforts are made to minimize the amount of routine paperwork required of teachers (56 percent in 2008 versus 54 percent in 2010).

H720-SMTL-52(e3) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 887  
Committee Substitute Favorable 6/2/11

Short Title: Zoning/Temp. Family Health Care Structures.

(Public)

Sponsors:

Referred to:

May 4, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT RELATING TO ZONING PROVISIONS FOR TEMPORARY HEALTH CARE  
3 STRUCTURES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Part 3 of Article 18 of Chapter 153A of the General Statutes is  
6 amended by adding a new section to read:

7 "**§ 153A-341.3. Zoning of temporary health care structures.**

8 A county exercising powers under this Article shall comply with G.S. 160A-383.5."

9 SECTION 2. Part 3 of Article 19 of Chapter 160A of the General Statutes is  
10 amended by adding a new section to read:

11 "**§ 160A-383.5. Zoning of temporary health care structures.**

12 (a) The following definitions apply in this section:

13 (1) Activities of daily living. – Bathing, dressing, personal hygiene, ambulation  
14 or locomotion, transferring, toileting, and eating.

15 (2) Caregiver. – An individual 18 years of age or older who (i) provides care for  
16 a mentally or physically impaired person and (ii) is a first or second degree  
17 relative of the mentally or physically impaired person for whom the  
18 individual is caring.

19 (3) First or second degree relative. – A spouse, lineal ascendant, lineal  
20 descendant, sibling, uncle, aunt, nephew, or niece, and includes half, step,  
21 and in-law relationships.

22 (4) Mentally or physically impaired person. – A person who is a resident of this  
23 State and who requires assistance with two or more activities of daily living  
24 as certified in writing by a physician licensed to practice in this State.

25 (5) Temporary family health care structure. – A transportable residential  
26 structure, providing an environment facilitating a caregiver's provision of  
27 care for a mentally or physically impaired person, that (i) is primarily  
28 assembled at a location other than its site of installation, (ii) is limited to one  
29 occupant who shall be the mentally or physically impaired person, (iii) has  
30 no more than 300 gross square feet, and (iv) complies with applicable  
31 provisions of the State Building Code and G.S. 143-139.1(b). Placing the  
32 temporary family health care structure on a permanent foundation shall not  
33 be required or permitted.

34 (b) A city shall consider a temporary family health care structure used by a caregiver in  
35 providing care for a mentally or physically impaired person on property owned or occupied by



1 the caregiver as the caregiver's residence as a permitted accessory use in any single-family  
2 residential zoning district on lots zoned for single-family detached dwellings.

3 (c) A city shall consider a temporary family health care structure used by an individual  
4 who is the named legal guardian of the mentally or physically impaired person a permitted  
5 accessory use in any single-family residential zoning district on lots zoned for single-family  
6 detached dwellings in accordance with this section if the temporary family health care structure  
7 is placed on the property of the residence of the individual and is used to provide care for the  
8 mentally or physically impaired person.

9 (d) Only one temporary family health care structure shall be allowed on a lot or parcel  
10 of land. The temporary family health care structures under subsections (b) and (c) of this  
11 section shall not require a special use permit or be subjected to any other local zoning  
12 requirements beyond those imposed upon other authorized accessory use structures, except as  
13 otherwise provided in this section. Such temporary family health care structures shall comply  
14 with all setback requirements that apply to the primary structure and with any maximum floor  
15 area ratio limitations that may apply to the primary structure.

16 (e) Any person proposing to install a temporary family health care structure shall first  
17 obtain a permit from the city. The city may charge a fee of up to one hundred dollars (\$100.00)  
18 for the initial permit and an annual renewal fee of up to fifty dollars (\$50.00). The city may not  
19 withhold a permit if the applicant provides sufficient proof of compliance with this section. The  
20 city may require that the applicant provide evidence of compliance with this section on an  
21 annual basis as long as the temporary family health care structure remains on the property. The  
22 evidence may involve the inspection by the city of the temporary family health care structure at  
23 reasonable times convenient to the caregiver, not limited to any annual compliance  
24 confirmation, and annual renewal of the doctor's certification.

25 (f) Notwithstanding subsection (i) of this section, any temporary family health care  
26 structure installed under this section may be required to connect to any water, sewer, and  
27 electric utilities serving the property and shall comply with all applicable State law, local  
28 ordinances, and other requirements, including Part 5 of this Article, as if the temporary family  
29 health care structure were permanent real property.

30 (g) No signage advertising or otherwise promoting the existence of the temporary  
31 health care structure shall be permitted either on the exterior of the temporary family health  
32 care structure or elsewhere on the property.

33 (h) Any temporary family health care structure installed pursuant to this section shall be  
34 removed within 60 days in which the mentally or physically impaired person is no longer  
35 receiving or is no longer in need of the assistance provided for in this section. If the temporary  
36 family health care structure is needed for another mentally or physically impaired person, the  
37 temporary family health care structure may continue to be used, or may be reinstated on the  
38 property within 60 days of its removal, as applicable.

39 (i) The city may revoke the permit granted pursuant to subsection (e) of this section if  
40 the permit holder violates any provision of this section or G.S. 160A-202. The city may seek  
41 injunctive relief or other appropriate actions or proceedings to ensure compliance with this  
42 section or G.S. 160A-202.

43 (j) Temporary family health care structures shall be treated as tangible personal  
44 property for purposes of taxation."

45 **SECTION 3.** G.S. 130A-250 is amended by adding a new subdivision to read:

46 "(14) Temporary family health care structures under G.S. 153A-341.1 or  
47 G.S. 160A-383.5."

48 **SECTION 4.** G.S. 131D-2.1(10) reads as rewritten:

49 "(10) Multiunit assisted housing with services. – An assisted living residence in  
50 which hands-on personal care services and nursing services which are  
51 arranged by housing management are provided by a licensed home care or



1 hospice agency through an individualized written care plan. The housing  
2 management has a financial interest or financial affiliation or formal written  
3 agreement which makes personal care services accessible and available  
4 through at least one licensed home care or hospice agency. The resident has  
5 a choice of any provider, and the housing management may not combine  
6 charges for housing and personal care services. All residents, or their  
7 compensatory agents, must be capable, through informed consent, of  
8 entering into a contract and must not be in need of 24-hour supervision.  
9 Assistance with self-administration of medications may be provided by  
10 appropriately trained staff when delegated by a licensed nurse according to  
11 the home care agency's established plan of care. Multiunit assisted housing  
12 with services programs are required to register annually with the Division of  
13 Health Service Regulation. Multiunit assisted housing with services  
14 programs are required to provide a disclosure statement to the Division of  
15 Health Service Regulation. The disclosure statement is required to be a part  
16 of the annual rental contract that includes a description of the following  
17 requirements:

- 18 a. Emergency response system;
- 19 b. Charges for services offered;
- 20 c. Limitations of tenancy;
- 21 d. Limitations of services;
- 22 e. Resident responsibilities;
- 23 f. Financial/legal relationship between housing management and home  
24 care or hospice agencies;
- 25 g. A listing of all home care or hospice agencies and other community  
26 services in the area;
- 27 h. An appeals process; and
- 28 i. Procedures for required initial and annual resident screening and  
29 referrals for services.

30 Continuing care retirement communities, subject to regulation by the  
31 Department of Insurance under Chapter 58 of the General Statutes, and  
32 temporary family health care structures, as defined in G.S. 160A-383.5, are  
33 exempt from the regulatory requirements for multiunit assisted housing with  
34 services programs."

35 **SECTION 5.** G.S. 160A-442(2) reads as rewritten:

36 "(2) "Dwelling" means any building, structure, manufactured home or mobile  
37 home, or part thereof, used and occupied for human habitation or intended to  
38 be so used, and includes any outhouses and appurtenances belonging thereto  
39 or usually enjoyed therewith, except that it does not include any  
40 manufactured home or mobile home, which is used solely for a seasonal  
41 vacation purpose. Temporary family health care structures, as defined in  
42 G.S. 160A-383.5, shall be considered dwellings for purposes of this Part,  
43 provided that any ordinance provision requiring minimum square footage  
44 shall not apply to such structures."

45 **SECTION 6.** If any provision of this act or its application is held invalid, the  
46 invalidity does not affect other provisions or applications of this act that can be given effect  
47 without the invalid provisions or application, and to this end the provisions of this act are  
48 severable.

49 **SECTION 7.** This act becomes effective July 1, 2011, and applies as to temporary  
50 family health care structures existing on or after that date. No county or city may impose a fee

1 as authorized by Section 1 of this act on any temporary family health care structure existing on  
2 that date.



# HOUSE BILL 887: Zoning/Temp. Family Health Care Structures

2011-2012 General Assembly

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<b>Committee:</b>	House Finance	<b>Date:</b>	June 8, 2011
<b>Introduced by:</b>	Reps. Moffitt, Howard, Setzer	<b>Prepared by:</b>	Trina Griffin
<b>Analysis of:</b>	Second Edition		Committee Counsel

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**SUMMARY:** *House Bill 887 would exempt temporary family health care structures from zoning requirements applicable to single family residential zoning by counties and cities and would require issuance of a permit for installation.*

**CURRENT LAW:** Counties and cities have the authority to zone as part the jurisdiction's land use planning authority. Zoning ordinances often limit a property to residential, agricultural, industrial, or commercial uses, and places constraints on those uses. Application can be made to the county or city with jurisdiction for an exemption to the zoning ordinance for a specific use.

**BILL ANALYSIS:** House Bill 887 would exempt from the zoning authority of cities and counties "temporary family health care structures," when those structures are within an area zoned single-family residential.

A temporary family health care structure is a transportable residential structure, providing an environment facilitating a caregiver's provision of care that meets all of the following requirements:

1. Is primarily assembled at a location other than the site of installation.
2. Is limited to 1 occupant who is mentally or physically impaired (an individual who requires assistance with 2 of more personal functions essential for health and well-being).
3. Has no more than 300 gross square feet.
4. Complies with the State Building Code.

**Limitations.** –

- Only one temporary family health care structure could be placed on a property.
- No signage advertising or otherwise promoting the existence of the structure permitted.

**Requirements.** –

- A person must obtain a permit in order to install a structure on the person's property. A city or county could charge up to \$100 for the initial permit, and up to \$50 for an annual renewal.
- A county or city may require that the structure be connected to water, sewer or electric utilities serving the property.
- The structure must comply with building inspections and State Building Code.
- The structure must comply with all setback requirements of the primary residence.
- The structure must be removed within 60 days of it no longer being needed. It could be returned to the property for re-installation within 60 days of removal if it becomes needed for a subsequent mentally or physically impaired person.

**Exemptions.** – The structures are exempt from:

- The regulation of food and lodging provisions in Part 6 of Article 8 of Chapter 130A.
- Licensure of adult care homes.

**EFFECTIVE DATE:** The bill would become effective July 1, 2011 and apply to temporary family health care structures existing at that time, except that the permit fee may not be charged for existing structures.

*Trika Churchill, counsel to House Government, substantially contributed to this summary.*

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 854  
Committee Substitute Favorable 5/12/11  
Committee Substitute #2 Favorable 6/7/11  
Fourth Edition Engrossed 6/8/11

Short Title: Abortion-Woman's Right to Know Act.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A TWENTY-FOUR-HOUR WAITING PERIOD AND THE INFORMED CONSENT OF A PREGNANT WOMAN BEFORE AN ABORTION MAY BE PERFORMED.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 90 of the General Statutes is amended by adding the following new Article to read:

"Article 11.

"Woman's Right to Know Act.

"§ 90-21.80. Short title.

This act may be cited as the 'Woman's Right to Know Act.'

"§ 90-21.81. Definitions.

The following definitions apply in this Article:

- (1) Abortion. – The use or prescription of any instrument, medicine, drug, or other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant with an intention other than to do any of the following:
  - a. Increase the probability of a live birth.
  - b. Preserve the life or health of the child.
  - c. Remove a dead, unborn child who died as the result of (i) natural causes in utero, (ii) accidental trauma, or (iii) a criminal assault on the pregnant woman or her unborn child which causes the premature termination of the pregnancy.
- (2) Attempt to perform an abortion. – An act, or an omission of a statutorily required act, that, under the circumstances as the actor believes them to be, constitutes a substantial step in a course of conduct planned to culminate in the performance of an abortion in violation of this Article.
- (3) Department. – The Department of Health and Human Services.
- (4) Display a real-time view of the unborn child. – An ultrasound or any more scientifically advanced means of viewing the unborn child in real time.
- (5) Medical emergency. – A condition which, in reasonable medical judgment, so complicates the medical condition of the pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible physical



\* H B 5 4 - V - 4 \*

- 1 impairment of a major bodily function, not including any psychological or  
2 emotional conditions. For purposes of this definition, no condition shall be  
3 deemed a medical emergency if based on a claim or diagnosis that the  
4 woman will engage in conduct which would result in her death or in  
5 substantial and irreversible physical impairment of a major bodily function.  
6 (6) Physician. – An individual licensed to practice medicine in accordance with  
7 this Chapter.  
8 (7) Probable gestational age. – What, in the judgment of the physician, will,  
9 with reasonable probability, be the gestational age of the unborn child at the  
10 time the abortion is planned to be performed.  
11 (8) Qualified professional. – An individual who is a registered nurse, nurse  
12 practitioner, or physician assistant licensed in accordance with Article 1 of  
13 this Chapter, or a qualified technician acting within the scope of the  
14 qualified technician's authority as provided by North Carolina law and under  
15 the supervision of a physician.  
16 (9) Qualified technician. – A registered diagnostic medical sonographer who is  
17 certified in obstetrics and gynecology by the American Registry for  
18 Diagnostic Medical Sonography (ARDMS) or a nurse midwife or advanced  
19 practice nurse practitioner in obstetrics with certification in obstetrical  
20 ultrasonography.  
21 (10) Stable Internet Web site. – A Web site that, to the extent reasonably  
22 practicable, is safeguarded from having its content altered other than by the  
23 Department.  
24 (11) Woman. – A female human, whether or not she is an adult.

25 **"§ 90-21.82. Informed consent to abortion.**

26 No abortion shall be performed upon a woman in this State without her voluntary and  
27 informed consent. Except in the case of a medical emergency, consent to an abortion is  
28 voluntary and informed only if all of the following conditions are satisfied:

- 29 (1) At least 24 hours prior to the abortion, a physician or qualified professional  
30 has orally informed the woman, by telephone or in person, of all of the  
31 following:  
32 a. The name of the physician who will perform the abortion.  
33 b. The particular medical risks associated with the particular abortion  
34 procedure to be employed, including, when medically accurate, the  
35 risks of infection, hemorrhage, cervical tear or uterine perforation,  
36 danger to subsequent pregnancies, including the ability to carry a  
37 child to full term, and any adverse psychological effects associated  
38 with the abortion.  
39 c. The probable gestational age of the unborn child at the time the  
40 abortion is to be performed.  
41 d. The medical risks associated with carrying the child to term.  
42 e. The display of a real-time view of the unborn child and heart tone  
43 monitoring that enable the pregnant woman to view her unborn child  
44 or listen to the heartbeat of the unborn child are available to the  
45 woman. The physician performing the abortion, qualified technician,  
46 or referring physician shall inform the woman that the printed  
47 materials and Web site described in G.S. 90-21.83 and G.S. 90-21.84  
48 contain phone numbers and addresses for facilities that offer the  
49 services free of charge. If requested by the woman, the physician or  
50 qualified professional shall provide to the woman the list as compiled  
51 by the Department.

- 1 f. If the physician who is to perform the abortion has no liability  
2 insurance for malpractice in the performance or attempted  
3 performance of an abortion, that information shall be communicated.  
4 g. The location of the hospital that offers obstetrical or gynecological  
5 care located within 30 miles of the location where the abortion is  
6 performed or induced and at which the physician performing or  
7 inducing the abortion has clinical privileges. If the physician who  
8 will perform the abortion has no local hospital admitting privileges,  
9 that information shall be communicated.

10 If the physician or qualified professional does not know the information  
11 required in sub-subdivisions a., f., or g. of this subdivision, the woman shall  
12 be advised that this information will be directly available from the physician  
13 who is to perform the abortion. However, the fact that the physician or  
14 qualified professional does not know the information required in  
15 sub-subdivisions a., f., or g. shall not restart the 24-hour period. The  
16 information required by this subdivision shall be provided in English and in  
17 each language that is the primary language of at least two percent (2%) of  
18 the State's population. The information may be provided orally either by  
19 telephone or in person, in which case the required information may be based  
20 on facts supplied by the woman to the physician and whatever other relevant  
21 information is reasonably available. The information required by this  
22 subdivision may not be provided by a tape recording but shall be provided  
23 during a consultation in which the physician is able to ask questions of the  
24 patient and the patient is able to ask questions of the physician. If, in the  
25 medical judgment of the physician, a physical examination, tests, or the  
26 availability of other information to the physician subsequently indicates a  
27 revision of the information previously supplied to the patient, then that  
28 revised information may be communicated to the patient at any time before  
29 the performance of the abortion. Nothing in this section may be construed to  
30 preclude provision of required information in a language understood by the  
31 patient through a translator.

32 (2) The physician or qualified professional has informed the woman, either by  
33 telephone or in person, of each of the following at least 24 hours before the  
34 abortion:

- 35 a. That medical assistance benefits may be available for prenatal care,  
36 childbirth, and neonatal care.  
37 b. That public assistance programs under Chapter 108A of the General  
38 Statutes may or may not be available as benefits under federal and  
39 State assistance programs.  
40 c. That the father is liable to assist in the support of the child, even if  
41 the father has offered to pay for the abortion.  
42 d. That the woman has other alternatives to abortion, including keeping  
43 the baby or placing the baby for adoption.  
44 e. That the woman has the right to review the printed materials  
45 described in G.S. 90-21.83, that these materials are available on a  
46 State-sponsored Web site, and the address of the State-sponsored  
47 Web site. The physician or a qualified professional shall orally  
48 inform the woman that the materials have been provided by the  
49 Department and that they describe the unborn child and list agencies  
50 that offer alternatives to abortion. If the woman chooses to view the  
51 materials other than on the Web site, the materials shall either be

1 given to her at least 24 hours before the abortion or be mailed to her  
2 at least 72 hours before the abortion by certified mail, restricted  
3 delivery to addressee.

4 f. That the woman is free to withhold or withdraw her consent to the  
5 abortion at any time before or during the abortion without affecting  
6 her right to future care or treatment and without the loss of any State  
7 or federally funded benefits to which she might otherwise be entitled.

8 The information required by this subdivision shall be provided in English  
9 and in each language that is the primary language of at least two percent  
10 (2%) of the State's population. The information required by this subdivision  
11 may be provided by a tape recording if provision is made to record or  
12 otherwise register specifically whether the woman does or does not choose  
13 to have the printed materials given or mailed to her. Nothing in this  
14 subdivision shall be construed to prohibit the physician or qualified  
15 professional from e-mailing a Web site link to the materials described in this  
16 subdivision or G.S. 90-21.83.

17 (3) The woman certifies in writing, before the abortion, that the information  
18 described in subdivisions (1) and (2) of this section has been furnished her  
19 and that she has been informed of her opportunity to review the information  
20 referred to in sub-subdivision (2)e. of this section. The original of this  
21 certification shall be maintained in the woman's medical records, and a copy  
22 shall be given to her.

23 (4) Before the performance of the abortion, the physician who will perform the  
24 abortion or the qualified technician must receive a copy of the written  
25 certification required by subdivision (3) of this section.

26 **"§ 90-21.83. Printed information required.**

27 (a) Within 90 days after this Article becomes effective, the Department shall publish in  
28 English and in each language that is the primary language of at least two percent (2%) of the  
29 State's population and shall cause to be available on the State Web site established under  
30 G.S. 90-21.84, the following printed materials in a manner that ensures that the information is  
31 comprehensible to a person of ordinary intelligence:

32 (1) Geographically indexed materials designed to inform a woman of public and  
33 private agencies and services available to assist her through pregnancy, upon  
34 childbirth, and while the child is dependent, including adoption agencies.  
35 The information shall include a comprehensive list of the agencies available,  
36 a description of the services they offer, including which agencies offer, at no  
37 cost to the woman, imaging that enables the woman to view the unborn child  
38 or heart tone monitoring that enables the woman to listen to the heartbeat of  
39 the unborn child, and a description of the manner, including telephone  
40 numbers, in which they might be contacted. In the alternative, in the  
41 discretion of the Department, the printed materials may contain a toll-free,  
42 24-hour-a-day telephone number that may be called to obtain, orally or by  
43 tape recorded message tailored to the zip code entered by the caller, a list of  
44 these agencies in the locality of the caller and of the services they offer.

45 (2) Materials designed to inform the woman of the probable anatomical and  
46 physiological characteristics of the unborn child at two-week gestational  
47 increments from the time a woman can be known to be pregnant until full  
48 term, including pictures or drawings representing the development of the  
49 unborn child at two-week gestational increments. The pictures shall contain  
50 the dimensions of the unborn child, information about brain and heart  
51 functions, the presence of external members and internal organs, and be

1 realistic and appropriate for the stage of pregnancy depicted. The materials  
2 shall be objective, nonjudgmental, and designed to convey only accurate  
3 scientific information about the unborn child at the various gestational ages.  
4 The material shall contain objective information describing the methods of  
5 abortion procedures employed, the medical risks associated with each  
6 procedure, the possible adverse psychological effects of abortion, as well as  
7 the medical risks associated with carrying an unborn child to term.

8 (b) The materials referred to in subsection (a) of this section shall be printed in a  
9 typeface large enough to be clearly legible. The Web site provided for in G.S. 90-21.84 shall be  
10 maintained at a minimum resolution of 70 DPI (dots per inch). All pictures appearing on the  
11 Web site shall be a minimum of 200x300 pixels. All letters on the Web site shall be a minimum  
12 of 12-point font. All information and pictures shall be accessible with an industry-standard  
13 browser requiring no additional plug-ins.

14 (c) The materials required under this section shall be available at no cost from the  
15 Department upon request and in appropriate numbers to any physician, person, health facility,  
16 hospital, or qualified professional.

17 **"§ 90-21.84. Internet Web site.**

18 The Department shall develop and maintain a stable Internet Web site to provide the  
19 information described under G.S. 90-21.83. No information regarding who accesses the Web  
20 site shall be collected or maintained. The Department shall monitor the Web site on a regular  
21 basis to prevent and correct tampering.

22 **"§ 90-21.85. Display of real-time view requirement.**

23 (a) Notwithstanding G.S. 14-45.1, except in the case of a medical emergency, in order  
24 for the woman to make an informed decision, at least four hours before a woman having any  
25 part of an abortion performed or induced, and before the administration of any anesthesia or  
26 medication in preparation for the abortion on the woman, the physician who is to perform the  
27 abortion, or qualified technician working in conjunction with the physician, shall do each of the  
28 following:

- 29 (1) Perform an obstetric real-time view of the unborn child on the pregnant  
30 woman.
- 31 (2) Provide a simultaneous explanation of what the display is depicting, which  
32 shall include the presence, location, and dimensions of the unborn child  
33 within the uterus and the number of unborn children depicted. The individual  
34 performing the display shall offer the pregnant woman the opportunity to  
35 hear the fetal heart tone. The image and auscultation of fetal heart tone shall  
36 be of a quality consistent with the standard medical practice in the  
37 community. If the image indicates that fetal demise has occurred, a woman  
38 shall be informed of that fact.
- 39 (3) Display the images so that the pregnant woman may view them.
- 40 (4) Provide a medical description of the images, which shall include the  
41 dimensions of the embryo or fetus and the presence of external members and  
42 internal organs, if present and viewable.
- 43 (5) Obtain a written certification from the woman, before the abortion, that the  
44 requirements of this section have been complied with, which shall indicate  
45 whether or not she availed herself of the opportunity to view the image.
- 46 (6) Retain a copy of the written certification prescribed by subdivision (a)(5) of  
47 this section. The certification shall be placed in the medical file of the  
48 woman and shall be kept by the abortion provider for a period of not less  
49 than seven years. If the woman is a minor, then the certification shall be  
50 placed in the medical file of the minor and kept for at least seven years or for  
51 five years after the minor reaches the age of majority, whichever is greater.



1 If the woman has had an obstetric display of a real-time image of the unborn child within 72  
2 hours before the abortion is to be performed, the certification of the physician or qualified  
3 technician who performed the procedure in compliance with this subsection shall be included in  
4 the patient's records and the requirements under this subsection shall be deemed to have been  
5 met.

6 (b) Nothing in this section shall be construed to prevent a pregnant woman from  
7 averting her eyes from the displayed images or from refusing to hear the simultaneous  
8 explanation and medical description.

9 (c) In the event the person upon whom the abortion is to be performed is an  
10 unemancipated minor, as defined in G.S. 90-21.6(1), the information described in subdivisions  
11 (a)(2) and (a)(4) of this section shall be furnished and offered respectively to a person required  
12 to give parental consent under G.S. 90-21.7(a) and the unemancipated minor. The person  
13 required to give consent in accordance with G.S. 90-21.7(a), as appropriate, shall make the  
14 certification required by subdivision (a)(5) of this section. In the event the person upon whom  
15 the abortion is to be performed has been adjudicated mentally incompetent by a court of  
16 competent jurisdiction, the information shall be furnished and offered respectively to her  
17 spouse or a legal guardian if she is married or, if she is not married, to one parent or a legal  
18 guardian and the woman. The spouse, legal guardian, or parent, as appropriate, shall make the  
19 certification required by subdivision (a)(5) of this section. In the case of an abortion performed  
20 pursuant to a court order under G.S. 90-21.8(e) and (f), the information described in  
21 subdivisions (a)(2) and (a)(4) of this section shall be provided to the minor, and the certification  
22 required by subdivision (a)(5) of this section shall be made by the minor.

23 **§ 90-21.86. Procedure in case of medical emergency.**

24 When a medical emergency compels the performance of an abortion, the physician shall  
25 inform the woman, before the abortion if possible, of the medical indications supporting the  
26 physician's judgment that an abortion is necessary to avert her death or that a 24-hour delay will  
27 create a serious risk of substantial and irreversible impairment of a major bodily function, not  
28 including psychological or emotional conditions. As soon as feasible, the physician shall  
29 document in writing the medical indications upon which the physician relied and shall cause  
30 the original of the writing to be maintained in the woman's medical records and a copy given to  
31 her.

32 **§ 90-21.87. Informed consent for a minor.**

33 If the woman upon whom an abortion is to be performed is an unemancipated minor, the  
34 voluntary and informed written consent required under G.S. 90-21.82 shall be obtained from  
35 the minor and from the adult individual who gives consent pursuant to G.S. 90-21.7(a).

36 **§ 90-21.88. Civil remedies.**

37 (a) Any person upon whom an abortion has been performed and any father of an unborn  
38 child that was the subject of an abortion may maintain an action for damages against the person  
39 who performed the abortion in knowing or reckless violation of this Article. Any person upon  
40 whom an abortion has been attempted may maintain an action for damages against the person  
41 who performed the abortion in willful violation of this Article.

42 (b) Injunctive relief against any person who has willfully violated this Article may be  
43 sought by and granted to (i) the woman upon whom an abortion was performed or attempted to  
44 be performed in violation of this Article, (ii) any person who is the spouse, parent, sibling, or  
45 guardian of, or a current or former licensed health care provider of, the woman upon whom an  
46 abortion has been performed or attempted to be performed in violation of this Article, or (iii)  
47 the Attorney General. The injunction shall prevent the abortion provider from performing or  
48 inducing further abortions in this State in violation of this Article.

49 (c) If judgment is rendered in favor of the plaintiff in any action authorized under this  
50 section, the court shall also tax as part of the costs reasonable attorneys' fees in favor of the  
51 plaintiff against the defendant. If judgment is rendered in favor of the defendant and the court

1 finds that the plaintiff's suit was frivolous or brought in bad faith, then the court shall tax as part  
2 of the costs reasonable attorneys' fees in favor of the defendant against the plaintiff.

3 **"§ 90-21.89. Protection of privacy in court proceedings.**

4 In every proceeding or action brought under this Article, the court shall rule whether the  
5 anonymity of any woman upon whom an abortion has been performed or attempted shall be  
6 preserved from public disclosure if she does not give her consent to the disclosure. The court,  
7 upon motion or sua sponte, shall make the ruling and, upon determining that her anonymity  
8 should be preserved, shall issue orders to the parties, witnesses, and counsel and shall direct the  
9 sealing of the record and exclusion of individuals from courtrooms or hearing rooms to the  
10 extent necessary to safeguard her identity from public disclosure. Each order issued pursuant to  
11 this section shall be accompanied by specific written findings explaining (i) why the anonymity  
12 of the woman should be preserved from public disclosure, (ii) why the order is essential to that  
13 end, (iii) how the order is narrowly tailored to serve that interest, and (iv) why no reasonable  
14 less restrictive alternative exists. In the absence of written consent of the woman upon whom an  
15 abortion has been performed or attempted, anyone who brings an action under G.S. 90-21.88  
16 (a) or (b) shall do so under a pseudonym. This section may not be construed to conceal the  
17 identity of the plaintiff or of witnesses from the defendant.

18 **"§ 90-21.90. Assurance of informed consent.**

19 (a) All information required to be provided under G.S. 90-21.82 to a woman  
20 considering abortion shall be presented to the woman individually and, except for information  
21 that may be provided by telephone, in the physical presence of the woman and in a language  
22 the woman understands to ensure that the woman has adequate opportunity to ask questions and  
23 to ensure the woman is not the victim of a coerced abortion.

24 (b) Should a woman be unable to read the materials provided to the woman pursuant to  
25 this section, a physician or qualified professional shall read the materials to the woman in a  
26 language the woman understands before the abortion.

27 **"§ 90-21.91. Assurance that consent is freely given.**

28 If a physician acting pursuant to this Article has reason to believe that a woman is being  
29 coerced into having an abortion, the physician or qualified professional shall inform the woman  
30 that services are available for the woman and shall provide the woman with private access to a  
31 telephone and information about, but not limited to, each of the following services:

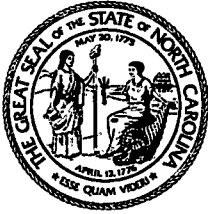
- 32 (1) Rape crisis centers.
- 33 (2) Shelters for victims of domestic violence.
- 34 (3) Restraining orders.
- 35 (4) Pregnancy care centers.

36 **"§ 90-21.92. Severability.**

37 If any one or more provision, section, subsection, sentence, clause, phrase, or word of this  
38 Article or the application thereof to any person or circumstance is found to be unconstitutional,  
39 the same is hereby declared to be severable, and the balance of this Article shall remain  
40 effective, notwithstanding such unconstitutionality. The General Assembly hereby declares that  
41 it would have passed this Article, and each provision, section, subsection, sentence, clause,  
42 phrase, or word thereof, irrespective of the fact that any one or more provision, section,  
43 subsection, sentence, clause, phrase, or word be declared unconstitutional."

44 **SECTION 2.** The Department of Health and Human Services shall use funds  
45 appropriated to it in implementing this act.

46 **SECTION 3.** This act becomes effective 90 days after it becomes law and applies  
47 to claims for relief arising on or after October 1, 2011.



## HOUSE BILL 854: Abortion-Woman's Right to Know Act

2011-2012 General Assembly

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<b>Committee:</b>	Senate Judiciary I	<b>Date:</b>	June 14, 2011
<b>Introduced by:</b>	Reps. Samuelson, McElraft	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	Fourth Edition		Committee Counsel

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**SUMMARY:** *This act provides that an abortion may not be performed without the pregnant woman's voluntary and informed consent, and that specific conditions must be fulfilled prior to an abortion being performed. The act also provides for recordkeeping requirements, and civil remedies for knowing or reckless violations of the act. This act becomes effective 90 days after it becomes law, and applies to claims for relief arising on or after October 1, 2011.*

[As introduced, this bill was identical to S769, as introduced by Sens. Brock, Harrington, Daniel, which is currently in Senate Health Care.]

### CURRENT LAW:

In general, abortions are illegal in North Carolina. However, notwithstanding statutes which make abortion illegal, it is not unlawful during the first 20 weeks of a woman's pregnancy for a licensed physician to perform an abortion in a hospital or a clinic licensed by the Department of Health and Human Services. After the 20<sup>th</sup> week, it is also not unlawful for a licensed physician to perform an abortion if there is a substantial risk that continuance of the pregnancy would threaten the life or gravely impair the health of the woman.

The seminal case on the imposition of procedural conditions by a state on a woman's right to an abortion is the United States Supreme Court's decision in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992). In *Casey*, although rejecting the "rigid trimester approach" in *Roe v. Wade*, the Supreme Court reaffirmed its central holding in *Roe v. Wade* that "[r]egardless of whether exceptions are made for particular circumstances, a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability." *Id.* At 879. The court went on to provide the rationale for the decision to uphold most of the requirements that had been imposed by the State of Pennsylvania:

What is at stake is the woman's right to make the ultimate decision, not a right to be insulated from all others in doing so. Regulations which do no more than create a structural mechanism by which the State, or the parent or guardian of a minor, may express profound respect for the life of the unborn are permitted, if they are not a substantial obstacle to the woman's exercise of the right to choose. Unless it has that effect on her right of choice, a state measure designed to persuade her to choose childbirth over abortion will be upheld if reasonably related to that goal. Regulations designed to foster the health of a woman seeking an abortion are valid if they do not constitute an undue burden.

*Id.* At 877. The Court emphasized that the adoption of an "undue burden analysis" did not disturb its central holding in *Roe v. Wade*.

The Court held that the definition of "medical emergency" in the Pennsylvania statute was sufficiently broad that it did not impose an undue burden; and that the informed consent requirements (24-hour waiting period, parental consent provision, reporting and recordkeeping requirements) did not impose an undue burden. The Pennsylvania law required that a physician inform the woman of (i) the nature of the procedure; (ii) the health risks of the abortion and of childbirth; (iii) the probable gestational age of the unborn child; (iv) the availability of printed materials published by the state describing the fetus; (v)

# House Bill 854

Page 2

information about medical assistance for childbirth; (vi) information about child support from the father; and (vii) a list of agencies which provide abortion and other services as abortion alternatives. The law also required that the woman certify in writing that she was informed of the availability of the materials and has been provided them if she chose to view them. The Court noted that the statute did not require a physician to comply with the informed consent provisions "if he or she can demonstrate by a preponderance of the evidence, that he or she reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the patient." *Id.* At 883-884. The Court held that the spousal notification provision did impose an undue burden.

[Attached to the summary is information on the abortion laws in all 50 state jurisdictions. The information is current as of May 1, 2011].

## BILL ANALYSIS:

### SECTION 1

The act creates a new Article in Chapter 90 of the General Statutes. Below is a description of each section of the act.

**G.S. 90-21.80** – The act is entitled the "Woman's Right to Know Act."

**G.S. 90-21.81** – Provides for definitions, including:

- **Abortion.** The definition is consistent with the general law that provides when an abortion is illegal, i.e., "the use or prescription of any instrument, medicine, drug, or other substance" to terminate a pregnancy. The definition *excludes* procedures intended to increase the probability of a live birth; preserve the life or health of the child; or remove a dead, unborn child who died as the result of (i) natural causes, (ii) accidental trauma, or (iii) a criminal assault on the pregnant woman or the unborn child, which causes the premature termination of the pregnancy.
- **Medical Emergency.** A condition which complicates the woman's condition such that an immediate abortion is necessary to avert her death or for which a delay will create serious risk of substantial and irreversible physical impairment of a bodily function. The definition excludes psychological or emotional conditions, or claims that the woman may engage in conduct that would create the conditions which would necessitate an abortion.
- **Qualified professional.** – A registered nurse, nurse practitioner, or physician's assistant, or a qualified technician acting within the scope of legal authority, and under a physician's supervision.
- **Qualified technician.** – A registered diagnostic medical sonographer who is certified in obstetrics and gynecology by the American Registry for Diagnostic Medical Sonography; a nurse midwife or advanced practice nurse practitioner with certification in obstetrical ultrasonography.

**G.S. 90-21.82 – Informed Consent.** The act provides that consent to an abortion is voluntary and informed only if *all of the following conditions* are satisfied:

- At least 24 hours prior to the abortion, a physician or qualified personnel, must orally inform the woman (by telephone or in person) of *all of the following*:
  - The name of the physician who will perform the abortion.
  - The medical risks associated with the procedure to be used.
  - The probable gestational age of the unborn child.

# House Bill 854

Page 3

- The medical risks associated with carrying the unborn child to term.
- That ultrasound imaging and heart tone monitoring are available; the sources of information providing the phone numbers and addresses of facilities that offer these services free of charge; and, if requested by the woman, the list compiled by the Department.
- The fact that the physician who is to perform the abortion has no liability insurance for malpractice, if that is the case.
- The location of the hospital offering obstetrical or gynecological care within 30 miles of the abortion is to be performed, and at which the physician performing the abortion has clinical privileges. If the physician has no local admitting privileges, that information shall be communicated.

If the person communicating the information does not know the name of the physician (or liability and local privileges information), the woman will be informed that this information will be provided by the physician at the time of the abortion. The 24 hour period does not restart under this circumstance.

The information will be provided in English, and in a foreign language if the language is spoken as a primary language by at least 2% of the State's population. A translator may be used to provide the information.

A tape-recording may not be used.

- At least 24 hours prior to the abortion, a physician or qualified professional has informed the woman (by telephone or in person) of *all of the following*:
  - Medical assistance may be available for prenatal care, childbirth, and neonatal care.
  - Public assistance programs may or may not be available as benefits under federal or State programs.
  - That the father is liable to assist in child support, even if he has offered to pay for the abortion.
  - That there are alternatives to abortion, including keeping the baby or placing the baby for adoption.
  - The right to review printed materials (see G.S. 90-21.83), and the availability of materials on a State Web site. The woman must be informed that the Department has materials that describe the unborn child, and that list agencies that offer alternatives to abortion. The materials shall be given to the woman at least 24 hours before the abortion or mailed at least 72 hours before the abortion by certified mail, restricted delivery, if the woman requests the materials other than on the Web site.
  - That the women may withhold or withdraw consent at any time before or during the abortion without losing any benefits to which she may be entitled.

The information will be provided in English, and in a foreign language if the language is spoken as a primary language by at least 2% of the State's population. A translator may be used to provide the information.

The information may be provided by a tape recording if the recording has the ability to record whether the woman wishes to receive the printed materials personally or by mail. A Web site

# House Bill 854

Page 4

link containing the materials described, or in G.S. 90-21.83 (see below), may be emailed to the woman.

**G.S. 90-21.83 – Publication of Printed Materials.** The act requires that within 90 days of the act becoming effective, the Department shall publish certain printed materials on the State Web site (see G.S. 90-21.84) in English, and in a foreign language if the language is spoken by at least 2% of the State's population. The materials shall include:

- A comprehensive list of geographically indexed agencies, both public and private, designed to assist a woman through pregnancy, childbirth, and while the child is dependent. The list shall include agencies which offer, at no cost to the woman, ultrasound imaging and heart tone monitoring. Alternatively, the printed materials may contain a toll-free, 24-hour-a-day telephone number which provides by zip code entered by the caller, oral or tape-recorded information on agencies in the caller's locality, and the services offered by those agencies.
- Information on the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments, from earliest indications of pregnancy to full term, including pictures or drawings of these stages.
  - The pictures must contain the dimensions, brain and heart function information, presence of external members and internal organs, and be realistic and appropriate for the stage depicted.
  - The materials must be objective, nonjudgmental, and convey only scientific information.
- The material must be objective and describe:
  - The methods of abortion procedures that are employed.
  - The medical risks associated with each procedure.
  - The possible adverse psychological effects of abortion.
  - The medical risks associated with carrying an unborn child to term.

**G.S. 90-21.84 – Web site.** The act requires the Department to develop and maintain an Internet Web site to provide the information contained in G.S. 90-21.83. No information on who accesses the site shall be maintained.

**G.S. 90-21.85 – Real-Time View (e.g., ultrasound).** The act requires (except in the case of a medical emergency) that a real time display be performed no later than four hours before an abortion by the physician who will perform the abortion, or by a qualified technician working for the physician. The act also requires:

- A simultaneous explanation of what the display depicts, including a medical description of the embryo or fetus. The pregnant woman shall be offered the opportunity to hear the fetal heart tone, and to view the ultrasound images. The woman may choose not to see the images or hear the heart tones. If the woman is a minor, then the opportunity to see the images and hear the heart tones shall be offered to the person providing the consent, as well as the minor.
- A written certification from the woman, before the abortion, confirming compliance with the section and whether the image was viewed. A copy of the certification must be maintained in the woman's medical file and kept by the abortion provider for not less than seven years. If the woman is a minor, it must be kept for at least seven years, or five years after the minor reaches the age of majority, whichever is greater.

# House Bill 854

Page 5

The act also provides for certification procedures when a minor, or a mentally incompetent person, is obtaining the abortion, as well as when the abortion has been ordered by the court for a minor (waiver of parental consent).

**G.S. 90-21.86 – Medical emergency.** In the case of a medical emergency, the act requires the physician to inform the woman (before the abortion if possible) of the medical indications, and explain why a 24-hour delay is necessary. The physician must document in writing the medical indications relied upon, and include the writing in the woman's medical records.

**G.S. 90-21.87 – Informed consent for a minor.** The act requires that the written consent required by G.S. 90-21.82 be obtained from the minor who is obtaining the abortion and the person who gives the consent required by law.

**G.S. 90-21.88 – Civil Remedies.** The act authorizes the woman who had the abortion, and the father of an unborn child that was the subject of an abortion, to bring an action for damages against the person who performed an abortion in knowing or reckless violation of the Article. Any person upon whom an abortion has been attempted may maintain an action for damages against the person who performed the abortion in willful violation of this Article. The act also provides for injunctive relief and attorneys fees.

**G.S. 90-21.89 – Protection of privacy.** The act authorizes a court to issue orders (upon written findings) protecting the anonymity of a person who obtained an abortion, or upon whom an abortion was attempted. In the absence of written consent, a person who brings an action under G.S. 90-21.88 must do so under a pseudonym.

**G.S. 90-21.90 – Assurance of Informed Consent.** Requires that information be given individually, and (except for information by telephone) in the physical presence of the woman and in a language the woman understands, so as to ensure that the woman can ask questions and is not being coerced. The information shall be read to a woman that is unable to read the materials.

**G.S. 90-21.91 – Assurance of freely-given consent.** If a physician acting under the Article believes that the woman is being coerced to have the abortion, the physician or qualified professional must inform the woman of available services, including: rape crisis centers; shelters for domestic violence victims; restraining orders, and pregnancy care centers.

**G.S. 90-21.92 – Severability clause.**

## SECTION 2

States that the Department of Health and Human Services shall use appropriated funds to implement the act.

**EFFECTIVE DATE:** The act becomes effective 90 days after it becomes law and applies to claims for relief arising on or after October 1, 2011.

*Hal Pell, counsel to House Judiciary Subcommittee B, substantially contributed to this summary.*

*H854-SMTG-61(e4) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 367\*

Short Title: Roanoke Rapids Deannexation. (Local)

Sponsors: Representatives Bradley and Bryant (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Finance.

March 16, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO DEANNEX CERTAIN PARCELS PREVIOUSLY ANNEXED BY A  
3 LEGISLATIVE ANNEXATION.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The following properties, which were annexed to the City of  
6 Roanoke Rapids by S.L. 2005-9, are removed from the corporate limits of the City of Roanoke  
7 Rapids, referenced below by Halifax County Tax Office Parcel ID:

8 1203642  
9 1203645  
10 1203646  
11 1203647  
12 1203649  
13 1203650  
14 1203658  
15 1203228  
16 1203400  
17 1203401  
18 1203402  
19 1203403  
20 1203404  
21 1203405  
22 1203406  
23 1203409  
24 1203438  
25 1203439  
26 1203591  
27 1220045  
28 1220049

29 SECTION 2. The City of Roanoke Rapids may exercise all the powers granted by  
30 Article 19 of Chapter 160A of the General Statutes in areas removed from the corporate limits  
31 by Section 1 of this act.

32 SECTION 3. This act is effective June 30, 2011.







# HOUSE BILL 367: Roanoke Rapids Deannexation

2011-2012 General Assembly

**Committee:** Senate Finance  
**Introduced by:** Reps. Bradley, Bryant  
**Analysis of:** First Edition

**Date:** June 14, 2011  
**Prepared by:** Greg Roney  
Committee Counsel

**SUMMARY:** *House Bill 367 deannexes 21 parcels from the City of Roanoke Rapids.*

**CURRENT LAW:** Under Section 1 of Article VII of the N.C. Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

The General Assembly enacted Article 4A of Chapter 160A of the General Statutes, authorizing municipalities to enact ordinances to add territory to their municipal limits by annexation.

The General Assembly has not enacted any method for municipalities to remove an area from its limits – that power remains with the General Assembly.

**BILL ANALYSIS:** House Bill 367 would deannex 21 parcels, listed in the bill, in the City of Roanoke Rapids. The bill provides that the City may exercise planning and zoning authority over the parcels leannexed.

**BACKGROUND:** The 21 parcels deannexed by House Bill 367 were annexed by S.L. 2005-9. The parcels were expected to become part of the Roanoke Rapids entertainment district.

**EFFECTIVE DATE:** This act is effective June 30, 2011.

*Giles S. Perry, counsel to House Government, substantially contributed to this summary.*

H367-SMTM-44(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 687  
Committee Substitute Favorable 5/23/11  
Third Edition Engrossed 5/25/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H687-CSRF-48 [v.1]

6/13/2011 8:14:55 PM

Short Title: Atty Fees/City or County Action Outside Auth.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT WHEN CITIES AND COUNTIES ACT OUTSIDE OF THE  
SCOPE OF THEIR AUTHORITY, THE PARTY SUCCESSFULLY CHALLENGING  
THAT ACTION MAY RECOVER REASONABLE ATTORNEYS' FEES.

The General Assembly of North Carolina enacts:

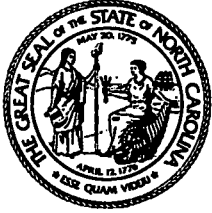
**SECTION 1.** Article 3 of Chapter 6 of the General Statutes is amended by adding a  
new section to read:

**"§ 6-21.6. Attorney fees; cities or counties acting outside the scope of their authority.**

**In any action in which a city or county is a party, upon a finding by the court that the city or  
county acted outside the scope of its legal authority, the court may award reasonable attorneys'  
fees and costs to the party who successfully challenged the city's or county's action, provided  
that if the court also finds that the city's or county's action was an abuse of its discretion, the  
court shall award attorneys' fees and costs."**

**SECTION 2.** This act becomes effective October 1, 2011 and applies to claims for  
relief which are brought or defended on or after that date.





## HOUSE BILL 687: Atty Fees/City or County Action Outside Auth

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 14, 2011
<b>Introduced by:</b>	Reps. Brawley, Moffitt, LaRoque, Brubaker	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	PCS to Third Edition H687-CSRF-48		Committee Counsel

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**SUMMARY:** House Bill 687 allows the court to award reasonable attorney's fees and costs in an action in which a city or county is a party, if the court finds that the city or county acted outside the scope of its legal authority. If the court also finds that the action was an abuse of the city's or county's discretion, the court is required to award attorneys' fees and costs.

**EFFECTIVE DATE:** This act becomes effective October 1, 2011 and applies to claims for relief which are brought or defended on or after that date. The PCS made a technical change to the effective date section of the bill.

*Barbara Riley, counsel to House Judiciary Subcommittee A, substantially contributed to this summary.*

*H687-SMTG-62(CSRF-48) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 311  
Second Edition Engrossed 5/5/11

Short Title: Household Goods Carriers/ID Markings. (Public)

Sponsors: Representatives Fisher, Samuelson, Jeffus, and McComas (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Transportation, if favorable, Finance.

March 10, 2011

A BILL TO BE ENTITLED

AN ACT REQUIRING THAT MOTOR CARRIERS OF HOUSEHOLD GOODS MARK OR IDENTIFY THEIR VEHICLES AND MAKING IT UNLAWFUL FOR A PERSON NOT CERTIFIED BY THE UTILITIES COMMISSION AS A MOTOR CARRIER OF HOUSEHOLD GOODS TO ADVERTISE OR OTHERWISE REPRESENT THAT THE PERSON IS AUTHORIZED TO ENGAGE IN THE TRANSPORTATION OF HOUSEHOLD GOODS FOR COMPENSATION IN THIS STATE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Part 4 of Article 17 of Chapter 20 of the General Statutes is amended by adding a new section to read as follows:

**"§ 20-398. Household goods carrier; marking or identification of vehicles.**

(a) No carrier shall operate any motor vehicle upon a highway, public street, or public vehicular area within the State in the transportation of household goods for compensation unless the name or trade name and the North Carolina number assigned to the carrier by the North Carolina Utilities Commission appear on each side of the vehicle in letters and figures not less than three inches high. The North Carolina number assigned to the carrier shall also be placed on the rear left upper quadrant of the vehicle in letters and figures not less than three inches high. In case of a tractor-trailer unit, the side markings must be on the tractor and the rear markings must be on the trailer. The markings required may be printed on the vehicle or on durable placards securely fastened on the vehicle.

(b) Except as provided in subsection (b) of this section, the provisions of this section shall apply to every vehicle used by the carrier in his or her operation whether owned, rented, leased, or otherwise. However, if a vehicle is rented or leased, the words "Operated By" shall also appear above or preceding the name of the carrier, unless the vehicles are under permanent lease, in which case the name of the lessor and the words "Operated By" need not appear.

(c) The provisions of this section do not apply to carriers engaged only in interstate commerce. If the carrier is engaged in both interstate and intrastate commerce and is marked as required by the Federal Motor Carrier Safety Administration, then in that case, it will only be necessary for the carrier to print his or her North Carolina number in a conspicuous place near his or her name in letters and figures corresponding in size with Federal Motor Carrier Safety Administration regulations.

(d) Any person, whether carrier or any officer, employee, agent, or representative thereof, who violates this section shall be guilty of a Class 3 misdemeanor and punished only by a fine of not more than five hundred dollars (\$500.00) for the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense."



1           SECTION 2. Article 12 of Chapter 62 of the General Statutes is amended by  
2 adding the following new sections to read:

3 **"§ 62-280. Household goods carrier; marking or identification of vehicles.**

4       (a) No carrier of household goods shall operate any motor vehicle upon a highway,  
5 public street, or public vehicular area within the State in the transportation of household goods  
6 for compensation in violation of the provisions of G.S. 20-398.

7       (b) The Utilities Commission may assess a civil penalty not in excess of five thousand  
8 dollars (\$5,000) for the violation of subsection (a) of this section. The clear proceeds of any  
9 civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and  
10 Forfeiture Fund in accordance with G.S. 115C-457.2.

11 **"§ 62-280.1. False representation of household goods carrier certificate unlawful.**

12       (a) It is unlawful for a person not issued a certificate to operate as a carrier of household  
13 goods under the provisions of this Chapter to do any of the following:

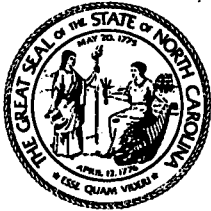
14           (1) Orally, in writing, in print, or by sign, including the use of a vehicle placard,  
15 phone book, Internet, magazine, newspaper, billboard, or business card, or in  
16 any other manner, directly or by implication, represent that the person holds  
17 a certificate or is otherwise authorized to operate as a carrier of household  
18 goods in this State.

19           (2) Use in connection with the person's name or place of business any words,  
20 letters, abbreviations, or insignia indicating or implying that the person holds  
21 a certificate or is otherwise authorized to operate as a carrier of household  
22 goods in this State.

23       (b) Any person who violates subsection (a) of this section shall be guilty of a Class 3  
24 misdemeanor and punished only by a fine of not more than five hundred dollars (\$500.00) for  
25 the first offense and not more than two thousand dollars (\$2,000) for any subsequent offense.

26       (c) The Utilities Commission may assess a civil penalty not in excess of five thousand  
27 dollars (\$5,000) for the violation of subsection (a) of this section. The clear proceeds of any  
28 civil penalties collected pursuant to this subsection shall be remitted to the Civil Penalty and  
29 Forfeiture Fund in accordance with G.S. 115C-457.2."

30       SECTION 3. This act becomes effective October 1, 2011.



## HOUSE BILL 311: Household Goods Carriers/ID Markings

2011-2012 General Assembly

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<b>Committee:</b>	Senate Ref to Transportation. If fav, re-ref to Finance	<b>Date:</b>	June 7, 2011
<b>Introduced by:</b>	Reps. Fisher, Samuelson, Jeffus, McComas	<b>Prepared by:</b>	Brenda J. Carter
<b>Analysis of:</b>	Second Edition		Committee Counsel

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**SUMMARY:** *House Bill 311 would require a motor carrier of household goods to mark or identify its vehicles; failure to mark a vehicle in accordance with the law would be a Class 3 misdemeanor. The carrier would also be subject to a civil penalty. The bill would make it unlawful for a person not certified by the Utilities Commission as a motor carrier of household goods to advertise or otherwise represent that the person is authorized to engage in the transportation of household goods for compensation in this State. Violation would be a Class 1 misdemeanor, and the person would also be subject to a civil penalty.*

**CURRENT LAW:** Under G.S. 20-382.1, a motor carrier that hauls household goods for compensation must register its operations with the State by obtaining a certificate of authority from the North Carolina Utilities Commission. Title 4, Chapter 11 of the North Carolina Administrative Code requires that each carrier of household goods be assigned a number by the Utilities Commission. All household goods common carriers are identified by the letter "C", and each such carrier is assigned a number. (Example: N.C. No. C-25). The Administrative Code requires that the name or trade name, home address and the North Carolina number assigned to the carrier appear on both sides of the vehicle in letters and figures not less than three inches high. The number must also appear on the rear of the vehicle.

**BILL ANALYSIS:** **Section 1** of the bill codifies an existing provision of the N. C. Administrative Code, by adding a new section to the State's motor vehicle law that requires intrastate motor carriers of household goods to display the carrier's name or trade name and the North Carolina number assigned to the carrier by the NC Utilities Commission on each side of the vehicle in letters/numbers at least 3 inches high. The number must also be placed on the rear of the vehicle. The requirement does not apply to carriers engaged only in interstate commerce; carriers engaged in both interstate and intrastate commerce must be marked as required by the Federal Motor Carrier Safety Administration (FMCSA), and print the carrier's NC number in a conspicuous place near the carrier's name in figures corresponding in size with FMCSA regulations. Violation would be a Class 3 misdemeanor, punishable by a fine up to \$500 for the first offense, and up to \$2,000 for any subsequent offense. **Section 2** of the bill amends the public utilities laws pertaining to motor carriers, adding a new section that prohibits a carrier of household goods from operating a motor vehicle that is not marked in accordance with the provisions set out in Section 1 of the bill. The Utilities Commission would be authorized to assess a civil penalty up to \$5,000 for a violation. The bill also makes it unlawful for a person to falsely represent himself or herself as holding a certificate or being otherwise authorized to operate as a carrier of household goods in this State; it would also be unlawful such person to use any words or insignia implying that the person holds a certificate or is otherwise authorized to operate. Violation would be a Class 3 misdemeanor, punishable by a fine up to \$500 for the first offense, and up to \$2,000 for any subsequent offense. The Utilities Commission would be authorized to assess a civil penalty up to \$5,000 for a violation.

**EFFECTIVE DATE:** The bill would become effective October 1, 2011.

H311-SMRV-70(e2) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

3

HOUSE BILL 895  
Committee Substitute Favorable 6/7/11  
Third Edition Engrossed 6/8/11

Short Title: Butner Fire & Police District Modifications.

(Public)

Sponsors:

Referred to:

May 5, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE MODIFICATIONS TO THE BUTNER PUBLIC SAFETY DIVISION.  
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 122C-408 reads as rewritten:

5 "§ 122C-408. Butner Public Safety Division of the Department of Crime Control and  
6 Public Safety; Authority; jurisdiction; fire and police district.

7 (a) Authority Established. – There is hereby created an authority known as the Butner  
8 Public Safety Authority, which is a body politic and corporate, to provide fire and police  
9 protection for the territory of the Camp Butner Reservation.

10 (a1) Membership. – The authority shall consist of seven voting members, three  
11 appointed by the Town of Butner, three appointed by the Secretary of Crime Control and Public  
12 Safety, and one appointed by the Granville County Board of Commissioners. The members  
13 shall be appointed within 30 days after the establishment of the authority. The initial Director  
14 of the authority shall be the Chief of the Butner Public Safety Division of the Department of  
15 Crime Control and Public Safety who is serving in that capacity on the day the authority is  
16 established. The Director shall be an ex officio, nonvoting member of the authority. No active  
17 member of the fire or police forces providing services to the authority may serve as a voting  
18 member of the authority. When the officers are elected as herein provided, the secretary of the  
19 authority shall certify to the Secretary of State the names and addresses of the officers as well  
20 as the address of the principal office of the authority, and such certification shall be filed by the  
21 Secretary of State in the same manner as articles of incorporation.

22 (a2) Term of Membership. – One member appointed by the Town of Butner, one  
23 member appointed by the Secretary of Crime Control and Public Safety, and the member  
24 appointed by the Granville County Board of Commissioners shall serve an initial term of two  
25 years. The remaining members shall serve an initial term of four years. The beginning date of  
26 each initial term for purposes of reappointment is September 1, 2011. Thereafter, each member  
27 shall serve a term of four years.

28 (a3) Transfer of Property. – Within 30 days after the establishment of the authority, the  
29 State shall transfer all real, personal, and mixed assets assigned to or used by the Butner Public  
30 Safety Division of the Department of Crime Control and Public Safety to the authority in fee  
31 simple absolute.

32 (a4) Duties and Responsibilities. – The authority shall have the following duties and  
33 responsibilities:

34 (1) To adopt bylaws for the regulation of its affairs and the conduct of its  
35 business.



- 1           (2)    To elect officers from among its members in accordance with its bylaws.  
2           (3)    To adopt an official seal and alter the same.  
3           (4)    To maintain an office at such place or places as it may designate.  
4           (5)    To sue and be sued in its own name, plead and be impleaded.  
5           (6)    To acquire, lease as lessee or lessor, construct, reconstruct, improve, extend,  
6           enlarge, equip, repair, maintain, or operate any property necessary for and  
7           incidental to the operation of a fire and police force.  
8           (7)    To make and enter into all contracts and agreements necessary or incidental  
9           to the performance of its duties and the execution of its powers under this  
10           section and to employ such employees and agents as may, in the judgment of  
11           the authority, be deemed necessary, and to fix their compensation; provided,  
12           however, that all such expenses shall be payable solely from funds made  
13           available under the provisions of this section.  
14           (8)    To contract with any department of State government or any unit of local  
15           government to provide services to the authority.  
16           (9)    To enter into contracts with the government of the United States or any  
17           agency or instrumentality thereof, or with any political subdivision, private  
18           corporation, copartnership, association, or individual providing for the  
19           provision of fire and police services within the Camp Butner Reservation.  
20           (10)   To receive and accept from any federal, State, or other public agency and  
21           any private agency, person, or other entity, donations, loans, grants, aid or  
22           contributions of any money, property, labor or other things of value for the  
23           operation of the authority and to agree to apply and use the same in  
24           accordance with the terms and conditions under which the same are provided  
25           if the same are otherwise lawful.  
26           (11)   To provide for the defense of civil and criminal actions and payment of civil  
27           judgments against employees and officers or former employees and officers  
28           and members or former members of the governing body, as authorized by  
29           G.S. 160A-167.  
30           (12)   To periodically review and recommend changes to the operational policy for  
31           the authority.  
32           (13)   To develop and adopt an annual budget for the authority which it shall  
33           request to be funded by the State and the Town of Butner as set out in this  
34           section and to revise the annual budget based on funding actually received  
35           and the needs of the authority.  
36           (14)   To do all acts and things necessary or convenient to carry out the powers  
37           granted by this section.  
38           (15)   To purchase real or personal property, as provided by G.S. 160A-20 or this  
39           Article.

40           (a5)   Police and Fire Protection. – The Secretary of Crime Control and Public Safety may  
41           employSubject to the provisions of subsection (d) of this section, the authority shall employ or  
42           contract with a State agency or unit of local government for the provision of special police  
43           officers for the territory of the Camp Butner Reservation. ~~The Secretary of Crime Control and~~  
44           ~~Public Safety shall contract with the Town of Butner to provide fire and police protection to~~  
45           ~~these areas within the incorporated limits of the Town of Butner. The territorial jurisdiction of~~  
46           these officers shall consist of the property shown on a map produced May 20, 2003, by the  
47           Information Systems Division of the North Carolina General Assembly and kept on file in the  
48           office of the Butner Town Manager and in the office of the Director of the ~~Butner Public Safety~~  
49           ~~Division of the Department of Crime Control and Public Safety~~ authority and such additional  
50           areas which are within the incorporated limits of the Town of Butner as shown on a map to be  
51           kept in the office of the Butner Town Manager and in the office of the Director of the ~~Butner~~



1 ~~Public Safety Division of the Department of Crime Control and Public Safety authority. The~~  
2 ~~Secretary of Crime Control and Public Safety may organize these special police officers~~  
3 ~~assigned to the authority shall be organized into a public safety department for that territory and~~  
4 ~~may establish it as a division within that principal department as permitted by Chapter 143B of~~  
5 ~~the General Statutes territory.~~

6 (b) Authority of Special Police Officers. – After taking the oath of office required for  
7 law-enforcement officers, the special police officers authorized by this section shall have the  
8 authority of deputy sheriffs of Durham and Granville Counties in those counties respectively.  
9 Within the territorial jurisdiction stated in subsection ~~(a)~~(a7) of this section, the special police  
10 officers have the primary responsibility to enforce the laws of North Carolina, the ordinances of  
11 the Town of Butner, and any rule applicable to the Camp Butner Reservation adopted under  
12 authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted  
13 any other agency of the State and also have the powers set forth for firemen in Articles 80, 82,  
14 and 83 of Chapter 58 of the General Statutes. Any civil or criminal process to be served on any  
15 individual confined at any State facility within the territorial jurisdiction described in  
16 subsection ~~(a)~~(a7) of this section shall be forwarded by the sheriff of the county in which the  
17 process originated to the Director of the ~~Butner Public Safety Division authority~~. Special police  
18 officers authorized by this section shall be assigned to transport any individual transferred to or  
19 from any State facility within the territorial jurisdiction described in subsection ~~(a)~~(a7) of this  
20 section to or from the psychiatric service of the University of North Carolina Hospitals at  
21 Chapel Hill.

22 (c) Funding. – The authority shall contract with the State to provide fire and police  
23 protection to those portions of the Camp Butner Reservation outside of the corporate limits of  
24 the Town of Butner. The authority shall also contract with the Town of Butner to provide fire  
25 and police protection within the corporate limits of the Town of Butner. The contract between  
26 the Town of Butner and the Department of Crime Control and Public Safety contracts shall  
27 provide that for the following:

- 28 (1) The Butner Public Safety Division of the Department of Crime Control and  
29 Public Safety shall provide the same level of service to the incorporated area  
30 known as the Town of Butner as provided to those areas of the Town of  
31 Butner served by Butner Public Safety on January 1, 2007; To fund the  
32 operations of the authority for the fiscal year beginning July 1, 2011, the  
33 State shall pay to the authority the sum of one million eight hundred eighty-  
34 five thousand one hundred eighty-one dollars (\$1,885,181) and the Town of  
35 Butner shall pay to the authority the sum of one million seven hundred  
36 eighty-two thousand nine hundred ninety-five dollars (\$1,782,995). The  
37 authority shall keep detailed time records tracking the amount of time spent  
38 providing fire and police protection both within and outside the corporate  
39 limits of the Town of Butner. Funding provided by the State pursuant to the  
40 contract in subsequent fiscal years shall be a percentage of the total budget  
41 set by the authority members determined by multiplying the total budget set  
42 by the authority by a fraction, the numerator of which shall be the hours  
43 spent by the authority providing services outside of the corporate limits of  
44 the Town of Butner and the denominator of which shall be the total hours the  
45 authority provided services both within the corporate limits of the Town of  
46 Butner and outside the corporate limits of the Town of Butner. The authority  
47 may also contract with any department of State government to provide  
48 services within the Camp Butner Reservation to that department; provided,  
49 however, the contract with such department shall provide enough revenue to  
50 fully cover the costs of providing such services, and any receipts or  
51 expenditures pursuant to such a contract shall not be considered in setting

1 each party's contribution percentage. The foregoing notwithstanding, neither  
2 party's contribution percentage shall increase or decrease more than ten  
3 percent (10%) per fiscal year.

4 (2) The State and the Town of Butner each shall pay to the State  
5 Treasurer, authority, on or before May-July 1 of each year, for deposit in the  
6 General Fund an amount equal to its funding percentage as described in  
7 subdivision (1) of this subsection. the amount that actually would have been  
8 collected from real and personal property ad valorem taxes due January 5,  
9 2007, in the area incorporated as the Town of Butner effective July 1, 2007,  
10 assuming a tax of twenty five cents (25¢) per one hundred dollars (\$100.00)  
11 valuation of all real and personal property in said area increased effective  
12 July 1 of each year by the increase in the percentage change in the Consumer  
13 Price Index published by the U.S. Department of Labor, Bureau of Labor  
14 Statistics, for the southeast region, all urban consumers (or if that data shall  
15 no longer be available, the closest equivalent substitute then in publication  
16 by the United States Government) for the previous year ended December  
17 31<sup>st</sup>.

18 (3) If additional areas are added to the incorporated limits of the Town of  
19 Butner, the payments due under the contract shall be increased by an amount  
20 equal to the amount that actually would have been collected from real and  
21 personal property ad valorem taxes due January 5 of the year of  
22 incorporation of such area if said incorporation occurs on or before May 1 or  
23 the amount collected for the preceding year if said incorporation occurs prior  
24 to May 1 of the then current year assuming a tax of twenty five cents (25¢)  
25 per one hundred dollars (\$100.00) valuation of all real and personal property  
26 in said area and increased yearly as set out above; and

27 (4) The Town of Butner and the Department of Crime Control and Public Safety  
28 may by mutual agreement modify the amounts required to be paid by the  
29 Town of Butner pursuant to subdivisions (2) and (3) of this subsection.

30 (d) Hiring of Director. – The authority shall contract with the Secretary of Crime  
31 Control and Public Safety to provide fire and police protection to the Camp Butner Reservation  
32 and the corporate limits of the Town of Butner so long as the Department provides the level of  
33 services required by the authority. In such event, the employees of the Department of Crime  
34 Control and Public Safety shall remain employees of the State. While the contract between the  
35 Secretary of Crime Control and Public Safety and the Town of Butner is in effect, the Secretary  
36 of Crime Control and Public Safety shall consult with the voting members of the authority  
37 concerning the Department's hiring of the Director of the authority. The consultation shall  
38 include, but not be limited to, the voting members of the authority reviewing and providing  
39 their comments to the Secretary of Crime Control and Public Safety on the credentials of the  
40 applicants for said position. In performing its functions under this subsection, the voting  
41 members of the authority shall have the same access to the applicants' personnel records  
42 pursuant to Article 7 of Chapter 126 of the General Statutes as the Secretary of Crime Control  
43 and Public Safety and are subject to the same restraints concerning the personnel information as  
44 set out in that Article. After consultation with the authority, the Secretary of Crime Control and  
45 Public Safety shall select and hire the Director of the authority.

46 (e) Dissolution. – In the event that either the Town of Butner or the State fails to pay  
47 the authority its percentage share of the authority's budget as described in this section, the  
48 nonpaying party shall cease to be a participant in the authority at the expiration of the fiscal  
49 year for which it has last paid its percentage share of the budget for the authority. The  
50 remaining participant may file a notice with the Secretary of State indicating that it is the sole  
51 remaining participant in the authority. All of the property of the authority shall remain with the

1 authority. At the expiration of the fiscal year for which the nonpaying party last paid its  
2 percentage share of the budget for the authority or at any time thereafter, the remaining  
3 participant in the authority also may file articles of dissolution dissolving the authority with the  
4 Secretary of State. In the case of such dissolution, the property of the authority shall be  
5 distributed to the remaining party filing the articles of dissolution."

6 SECTION 2. G.S. 122C-411 and G.S. 122C-414 are repealed.

7 SECTION 3. Chapter 830 of the 1983 Session Laws, as amended by S.L.  
8 2003-346, Section 43.3 of S.L. 2005-276, and Section 14 of S.L. 2007-269, is repealed.

9 SECTION 4. G.S. 160A-288(d)(4) reads as rewritten:

10 "(4) ~~Butner Public Safety~~-Safety Authority."

11 SECTION 5. G.S. 160A-288.2(d)(3) reads as rewritten:

12 "(3) ~~Butner Public Safety~~-Safety Authority."

13 SECTION 6.(a) If House Bill 200, 2011 Regular Session, becomes law, then  
14 subsections (jj) and (kk) of Section 19.1 of that act are repealed.

15 SECTION 6.(b) If House Bill 200, 2011 Regular Session, becomes law, then  
16 Section 19.3 is repealed.

17 SECTION 6.(c) If House Bill 200, 2011 Regular Session, becomes law, then  
18 G.S. 143B-259(a)(3), as enacted by that act, is rewritten to read:

19 "(3) The Division of Law Enforcement, which shall consist of the following  
20 former divisions of the Department of Crime Control and Public Safety and  
21 the Department of Justice: the State Highway Patrol, the Alcohol Law  
22 Enforcement Division, ~~the Butner Public Safety Division,~~ and the State  
23 Capitol Police Division. The head of the Division of Law Enforcement shall  
24 be a chief deputy secretary."

25 SECTION 7. This act is effective when it becomes law or July 1, 2011, whichever  
26 is earlier.



# HOUSE BILL 895: Butner Fire & Police District Modifications

2011-2012 General Assembly

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<b>Committee:</b> Rules and Operations of the Senate	<b>Date:</b> June 15, 2011
<b>Introduced by:</b> Rep. Crawford	<b>Prepared by:</b> Brad Krehely
<b>Analysis of:</b> Third Edition	Committee Counsel

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**SUMMARY:** *House Bill 895 would make modifications to the Butner Public Safety Division.*

**BILL ANALYSIS:** House Bill 895 would do all of the following:

- Establish the Butner Public Safety Authority to provide fire and police protection for the Camp Butner Reservation.
- Provide that the authority consists of 7 voting members (3 appointed by the Town of Butner, 3 appointed by the Secretary of Crime Control and Public Safety, and one appointed by the Granville County Board of Commissioners).
- Provide that 3 members of the Board shall serve an initial term of 2 years, and the remaining members serve an initial term of 4 years. Thereafter, terms are for 4 years.
- Require the State transfer assets from the Butner Public Safety Division of the Department of Crime Control and Public Safety to the authority within 30 days after establishing the authority.
- Provide duties and responsibilities of the authority.
- Require the authority to employ or contract with a State agency or unit of local government to provide special police officers for the Camp Butner Reservation.
- Require the authority to contract with the State to provide fire and police protection within the Town of Butner and to those portions of the Camp Butner Reservation outside the corporate limits of the Town of Butner. Require that the contracts must include the following:
  - To fund the operations of the authority for the fiscal year beginning July 1, 2011, the State must pay to the authority \$1,885,181 and the Town of Butner shall pay to the authority \$1,782,995.
  - The State and the Town of Butner must pay to the authority on or before July 1 of each year, a funding percentage set forth in the bill.
- Require the authority to contract with the Secretary of Crime Control and Public Safety to provide fire and police protection, so long as the Department provides the level of services required by the Authority. Employees of the Department would remain employees of the State.
- Require the Secretary of Crime Control and Public Safety to select the authority's Director.
- Provide that if the Town of Butner or the State fails to pay its percentage share of the authority's budget, the nonpaying party ceases to be a participant in the authority at the expiration of the fiscal year. The remaining participant may file a notice with the Secretary of State that it is the sole remaining participant and may file articles of dissolution dissolving the authority.
- Make conforming changes, some of which would apply if the budget is enacted.

**EFFECTIVE DATE:** The act is effective when it becomes law or July 1, 2011, whichever is earlier.

H895-SMRN-73(e3) v3

Research Division

O. Walker Reagan, Director

(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 644  
Committee Substitute Favorable 5/31/11  
Third Edition Engrossed 6/2/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H644-CSRW-59 [v.2]

6/10/2011 10:36:20 AM

Short Title: Establish Pharmacy Audit Rights.

(Public)

Sponsors:

Referred to:

April 6, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH PHARMACY AUDIT RIGHTS AND TO ESTABLISH  
3 STANDARDS FOR RECOUPMENT OF CLAIMS AND AUTHORIZING A THIRTY-  
4 DAY PERIOD TO SUBMIT A WRITTEN REQUEST FOR A RECONSIDERATION  
5 REVIEW TO THE DIVISION OF MEDICAL ASSISTANCE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 90 of the General Statutes is amended by adding a new  
8 Article to read:

9 "Article 4C.

10 "Pharmacy Audit Rights.

11 **"§ 90-85.50. Declaration of pharmacy rights during audit.**

12 (a) The following definitions apply in this Article:

13 (1) "Pharmacy" means a person or entity holding a valid pharmacy permit  
14 pursuant to G.S. 90-85.21 or G.S. 90-85.21A.

15 (2) "Responsible party" means the entity responsible for payment of claims for  
16 health care services other than (i) the individual to whom the health care  
17 services were rendered or (ii) that individual's guardian or legal  
18 representative.

19 (b) Notwithstanding any other provision of law, whenever a managed care company,  
20 insurance company, third-party payer, or any entity that represents a responsible party conducts  
21 an audit of the records of a pharmacy, the pharmacy has a right to all of the following:

22 (1) To have at least 14 days' advance notice of the initial on-site audit for each  
23 audit cycle.

24 (2) To have any audit that involves clinical judgment be done with a pharmacist  
25 who is licensed, and is employed or working under contract with the  
26 auditing entity.

27 (3) Not to have clerical or record-keeping errors, including typographical errors,  
28 scrivener's errors, and computer errors, on a required document or record, in  
29 the absence of any other evidence, deemed fraudulent. This subdivision does  
30 not prohibit recoupment of fraudulent payments.



- 1           (3a) If required under the terms of the contract, to have the auditing entity  
2 provide a pharmacy, upon request, all records related to the audit in an  
3 electronic format or contained in digital media.
- 4           (4) To have the properly documented records of a hospital or any person  
5 authorized to prescribe controlled substances for the purpose of providing  
6 medical or pharmaceutical care for their patients transmitted by any means  
7 of communication in order to validate a pharmacy record with respect to a  
8 prescription or refill for a controlled substance or narcotic drug.
- 9           (5) To have a projection of an overpayment or underpayment based on either the  
10 number of patients served with a similar diagnosis or the number of similar  
11 prescription orders or refills for similar drugs. This subdivision does not  
12 prohibit recoupments of actual overpayments, unless the projection for  
13 overpayment or underpayment is part of a settlement by the pharmacy.
- 14           (6) Prior to the initiation of an audit, if the audit is conducted for an identified  
15 problem, the audit is limited to claims that are identified by prescription  
16 number.
- 17           (7) If an audit is conducted for a reason other than described in subdivision (6)  
18 of this subsection, the audit is limited to 100 selected prescriptions.
- 19           (8) If an audit reveals the necessity for a review of additional claims, to have the  
20 audit conducted on site.
- 21           (9) Except for audits initiated for the reason described in subdivision (6) of this  
22 subsection, to be subject to no more than one audit in one calendar year,  
23 unless fraud or misrepresentation is reasonably suspected.
- 24           (10) Except for cases of Food and Drug Administration regulation or drug  
25 manufacturer safety programs, to be free of recoupments based on any of the  
26 following unless defined within the billing requirements set forth in the  
27 pharmacy provider manual not inconsistent with current North Carolina  
28 Board of Pharmacy Regulations:
- 29           a. Documentation requirements in addition to or exceeding  
30 requirements for creating or maintaining documentation prescribed  
31 by the State Board of Pharmacy.
- 32           b. A requirement that a pharmacy or pharmacist perform a professional  
33 duty in addition to or exceeding professional duties prescribed by the  
34 State Board of Pharmacy.
- 35           (11) To be subject to recoupment only following the correction of a claim and to  
36 have recoupment limited to amounts paid in excess of amounts payable  
37 under the corrected claim.
- 38           (12) Except for Medicare claims, to be subject to reversals of approval for drug,  
39 prescriber, or patient eligibility upon adjudication of a claim only in cases in  
40 which the pharmacy obtained the adjudication by fraud or misrepresentation  
41 of claim elements.
- 42           (13) To be audited under the same standards and parameters as other similarly  
43 situated pharmacies audited by the same entity.
- 44           (14) To have at least 30 days following receipt of the preliminary audit report to  
45 produce documentation to address any discrepancy found during an audit.
- 46           (15) To have the period covered by an audit limited to 24 months from the date a  
47 claim was submitted to, or adjudicated by, a managed care company, an  
48 insurance company, a third-party payer, or any entity that represents  
49 responsible parties, unless a longer period is permitted by a federal plan  
50 under federal law.

- 1           (16) Not to be subject to the initiation or scheduling of audits during the first five  
2 calendar days of any month due to the high volume of prescriptions filled  
3 during that time, without the express consent of the pharmacy. The  
4 pharmacy shall cooperate with the auditor to establish an alternate date  
5 should the audit fall within the days excluded.
- 6           (17) To have the preliminary audit report delivered to the pharmacy within 120  
7 days after conclusion of the audit.
- 8           (18) To have a final audit report delivered to the pharmacy within 90 days after  
9 the end of the appeals period, as provided for in G.S. 90-85.51.
- 10          (19) Not to have the accounting practice of extrapolation used in calculating  
11 recoupments or penalties for audits, unless otherwise required by federal  
12 requirements or federal plans.

13 **"§ 90-85.51. Mandatory appeals process.**

14       (a) Each entity that conducts an audit of a pharmacy shall establish an appeals process  
15 under which a pharmacy may appeal an unfavorable preliminary audit report to the entity.

16       (b) If, following the appeal, the entity finds that an unfavorable audit report or any  
17 portion of the unfavorable audit report is unsubstantiated, the entity shall dismiss the  
18 unsubstantiated portion of the audit report without any further proceedings.

19       (c) Each entity conducting an audit shall provide a copy, if required under contractual  
20 terms, of the audit findings to the plan sponsor after completion of any appeals process.

21 **"§ 90-85.52. Pharmacy audit recoupments.**

22       (a) Recoupments of any disputed funds shall occur only after final internal disposition  
23 of an audit, including the appeals process as set forth in G.S. 90-85.51, unless fraud or  
24 misrepresentation is reasonably suspected.

25       (b) Recoupment on an audit shall be refunded to the responsible party as contractually  
26 agreed upon by the parties.

27       (c) The entity conducting the audit may charge or assess the responsible party, directly  
28 or indirectly, based on amounts recouped if both of the following conditions are met:

29           (1) The responsible party and the entity conducting the audit have entered into a  
30 contract that explicitly states the percentage charge or assessment to the  
31 responsible party.

32           (2) A commission or other payment to an agent or employee of the entity  
33 conducting the audit is not based, directly or indirectly, on amounts  
34 recouped.

35 **"§ 90-85.53. Applicability.**

36       This Article does not apply to any audit, review, or investigation that involves alleged  
37 Medicaid fraud, Medicaid abuse, insurance fraud, or other criminal fraud or misrepresentation."

38       **SECTION 2.** Notwithstanding 10A NCAC 22F .0402, a provider shall submit to  
39 the Division of Medical Assistance a written request for a Reconsideration Review within 30  
40 working days from the date of the receipt of notice of tentative decision. Failure to request a  
41 Reconsideration Review in the specified time shall result in the implementation of the tentative  
42 decision as the Division's final decision. Any provider who had received notice of a tentative  
43 decision under 10A NCAC 22F .0402 on or after March 1, 2011, shall be eligible to resubmit a  
44 written request for Reconsideration Review within 30 working days of this act becoming law.  
45 The Department of Health and Human Services shall amend any rule in conflict with this  
46 provision.

47       **SECTION 3.** Section 1 of this act becomes effective January 1, 2012, and applies  
48 to audits of pharmacies conducted on or after that date. The remaining sections of this act are  
49 effective when they become law.

VISITOR REGISTRATION SHEET

6-15-11

~~Senate Commerce Committee~~

RULES

June 14, 2011

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
David McEwan	NCAR
Cissi Hays	NCHBA
Elizabeth Robinson	NCRMA
Thomas Mason	Thomas W Mason
Sarah Preston	ACLU-NC
Jessica Laurenz	Planned Parenthood
Melissa Reed	PPHS
Paige Johnson	PPCNC
Alison Kiser	PPCNC
Barbara Holst	NCRTC
Paul Sherman	NEFB



VISITOR REGISTRATION SHEET

6-15-11

~~Senate Commerce Committee~~  
Name of Committee

Rules

~~June 14, 2011~~  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM

NAME	FIRM OR AGENCY AND ADDRESS
TARA FIELDS	Benchmarks
Mitchell Price	PPCNE
Fred Baggett	Smith Mason L.
Wendy Kelly	Policy Group
Ken Melton	K.M.A.
Tamy Logg	MWC
Bo Hutto	MWC
Matt Howell	NCSBA
Leanne Winner	NCSBA
Rev. MARK CREECH	CAL
Gene Royall	NC Family Policy Council

VISITOR REGISTRATION SHEET

Rules

6-15-11

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE

CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Amy Bason	ncacc
Art Britt	ncda
Jennifer Hargrave	ncda
Forrest Gilliam	Governor's Office
Anison Walker	Nelson Mullins
DAVID BARNES	PS
Wayne Hobson	CCPS/Butler Public Sq
Ann Wynn	Attorney/Tim of Butler
John M Killian	Nelson Mullins
Brian SUGRAN	PS
MARK A DROSTIN	UNC Center for Civil Rights

VISITOR REGISTRATION SHEET

Rules  
Name of Committee

6-15-11  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Bill Farrow	NC Justice Center
Kay Palkov	NASW-NC
Katherine Ross	PPAB
DAVID BAUM	TROUTMAN SANDERS
Amy McConkey	NC Bar Assoc
Maer DM	Smith Anderson
Aedis Watkins	SEANC
<del>SP</del>	<del>DATE</del>
Bill Rosen	STP
<del>Walter Lane</del>	<del>DATE</del>
Rick Zechini	Progress Energy

PAGES ATTENDING

Date: 6-15, 7:30AM

Committee: Rules Room: 1027

PLEASE PRINT LEGIBLY!!!!

Page Name	Hometown	Sponsoring Senator
① Brandon Patton	Youngsville	D Berger
② Julia Rao	Chapel Hill	Atwater
③ Alex Festa	Raleigh	Apodaca
Alec Lucas	Raleigh	Stein
⑤ Garrett Peeler	Raleigh	Hunt
6		
7		
8		
9		

Do not add additional names below the grid.

Pages: Please present this form to either the Committee Clerk at the meeting or a Sgt. at Arms.

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 15, 2011

The Committee on Rules and Operations of the Senate met during a recess on June 15, 2011 at 7:10 P.M. at Senator Apodaca's Chamber Desk. Eleven members of the committee were present. Senator Apodaca presided.

**HOUSE BILL 796 – Sale of Alcoholic Beverages** – Senator Apodaca presented the committee with a Proposed Committee Substitute and Senator moved for adoption. Senator Brock explained the bill. Senator Brown moved for a favorable report to the PCS. Motion carried.

**HOUSE BILL 593 – Allow County Grants for Broadband** – Senator Newton explained the bill. Senator Brown moved for a favorable report. Motion carried.

The meeting adjourned at 7:15 P.M.

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Senator Tom Apodaca, Chairman

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Carolyn Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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D

HOUSE BILL 796  
PROPOSED SENATE COMMITTEE SUBSTITUTE H796-PCS11250-ME-26

Short Title: Sale of Alcoholic Beverages.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO MODIFY PROVISIONS RELATED TO THE SALES OF ALCOHOLIC BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 18B-1004 reads as rewritten:

"§ 18B-1004. Hours for sale and consumption.

(a) ~~Hours for On-Premise Locations. – Except as otherwise provided in this section, it~~ It shall be unlawful for a permittee holding on-premise permits for the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M. A.M., in any place that has been issued a permit under G.S. 18B-1001. It shall be unlawful for any person to sell or consume alcoholic beverages on any premises where on-premise permits are issued for the sale of malt beverages, unfortified wine, fortified wine, or mixed beverages from the time at which sale or consumption must cease on Sunday morning until 11:00 A.M. on that day.

(a1) Hours for Off-Premise Locations. – It shall be unlawful for a permittee holding only off-premise permits allowing the sale of malt beverages, unfortified wine, or fortified wine, to sell malt beverages, unfortified wine, or fortified wine between the hours of 2:00 A.M. and 5:00 A.M. on Monday through Saturday, and between the hours of 2:00 A.M. and 11:00 A.M. on Sunday.

(b) Repealed by Session Laws 1991, c. 689, s. 310.

(e) ~~Sunday Hours. – It shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until 12:00 Noon on that day.~~

(d) ~~Local Option. – A city may adopt an ordinance prohibiting in the city the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. A county may adopt an ordinance prohibiting, in the parts of the county outside any city, the retail sale of malt beverages, unfortified wine, and fortified wine during any or all of the hours from 12:00 Noon on Sunday until 7:00 A.M. on the following Monday. Neither a city nor a county, however, may prohibit those sales in establishments having brown bagging or mixed beverages permits.~~



1 (e) This section does not prohibit at any time the wholesale delivery and sale of  
2 unfortified wine, fortified wine, and malt beverages to retailers issued permits pursuant to  
3 G.S. 18B-1001 or G.S. 18B-1002(a)(2) or (5)."

4 SECTION 1.(b) G.S. 18B-1006(q) is repealed.

5 SECTION 1.(c) This act is effective when it becomes law. Prosecutions for  
6 offenses committed before the effective date of this act are not abated or affected by this act,  
7 and the statutes that would be applicable but for this act remain applicable to those  
8 prosecutions.

9 SECTION 2.(a) G.S. 18B-900(a) reads as rewritten:

10 "(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person  
11 shall:

- 12 (1) Be at least 21 years old, unless the person is a manager of a business selling  
13 only malt beverages and unfortified wine, in which case the person shall be  
14 at least 19 years old;
- 15 (2) Be a resident of North Carolina unless:
  - 16 a. He is an officer, director or stockholder of a corporate applicant or  
17 permittee and is not a manager or otherwise responsible for the  
18 day-to-day operation of the business; or
  - 19 b. He has executed a power of attorney designating a qualified resident  
20 of this State to serve as attorney in fact for the purposes of receiving  
21 service of process and managing the business for which permits are  
22 sought; or
  - 23 c. He is applying for a nonresident malt beverage vendor permit, a  
24 nonresident wine vendor permit, or a vendor representative permit;
- 25 (3) Not have been convicted of a felony within three years, and, if convicted of a  
26 felony before then, shall have had his citizenship restored;
- 27 (4) Not have been convicted of an alcoholic beverage offense within two years;
- 28 (5) Not have been convicted of a misdemeanor controlled substance offense  
29 within two years; and
- 30 (6) Not have had an alcoholic beverage permit revoked within three years,  
31 except where the revocation was based solely on a permittee's failure to pay  
32 the annual registration and inspection fee required in G.S. 18B-903(b1).
- 33 (7) Not have, whether as an individual or as an officer, director, shareholder or  
34 manager of a corporate permittee, an unsatisfied outstanding final judgment  
35 that was entered against him in an action under Article 1A of this Chapter.
- 36 (8) Have a valid social security number or be able to produce valid  
37 documentation issued to the applicant under the authority of the United  
38 States government demonstrating legal presence in the United States.

39 To avoid undue hardship, however, the Commission may decline to take action under  
40 G.S. 18B-104 against a permittee who is in violation of subdivisions (3), (4), or (5)."

41 SECTION 2.(b) G.S. 18B-1002(d) reads as rewritten:

42 "(d) Administrative Procedure. – A permit issued pursuant to this section shall not be  
43 issued less than 10 days before any qualifying event described in subdivisions (1) through (5)  
44 of subsection (a) of this section. The Commission shall notify the ALE Division not more than  
45 three business days after the date a permit is issued pursuant to this section, of the name and  
46 address of the applicant, the address of the event, and any conditions placed on the permit  
47 pursuant to subsection (c) of this section. Denial or revocation of a permit under this section  
48 shall not entitle the applicant or permittee to a hearing under Chapter 150B."

49 SECTION 3.(a) G.S. 18B-603(f) is amended by adding new subdivisions to read:

50 "(f) Permits Not Dependent on Elections. – The Commission may issue the following  
51 kinds of permits without approval at an election:

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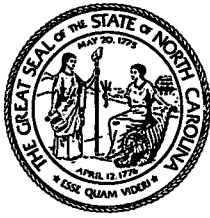
- ...  
(10) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for hotels, convention centers, food markets, or restaurants located on the Centennial Campus, Horace Williams Campus, or any Millennial Campus of a constituent institution of The University of North Carolina.
- (11) The permits authorized by G.S. 18B-1001(1) and (3) for sale of beer and wine at performing arts centers located on property owned by or leased by a constituent institution of The University of North Carolina if the seating capacity does not exceed 2,000 seats."

**SECTION 3.(b)** G.S. 18B-1006(a) reads as rewritten:

"(a) School and College Campuses. – No permit for the sale of malt beverages, unfortified wine, or fortified wine shall be issued to a business on the campus or property of a public school or college, other than at a regional facility as defined by G.S. 160A-480.2 operated by a facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes except for a public school or college function, unless that business is a hotel or a nonprofit alumni organization with a mixed beverages permit or a special occasion permit. This subsection shall not apply on property owned by a local board of education which was leased for 99 years or more to a nonprofit auditorium authority created prior to 1991 whose governing board is appointed by a city board of aldermen, a county board of commissioners, or a local school board. This subsection shall also not apply to the constituent institutions of The University of North Carolina with respect to the sale of beer and wine at performing arts centers located on property owned or leased by the institutions if the seating capacity does not exceed 2,000 seats, ~~seats,~~ or to the sale of beer, wine, or mixed beverages at any hotel, convention center, food market, or restaurant located on the Centennial Campus, the Horace Williams Campus, or any Millennial Campus of a constituent institution of The University of North Carolina, or to any golf courses owned or leased by the constituent institutions and open to the public for use."

**SECTION 4.** Section 3 becomes effective October 1, 2011. The remainder of this act is effective when it becomes law. Prosecutions for offenses committed before the effective date of a section of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.





# HOUSE BILL 796: Sale of Alcoholic Beverages

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. Moffitt  
**Analysis of:** PCS to First Edition (H796-CSME-26)

**Date:** June 15, 2011  
**Prepared by:** Ryan Blackledge  
Staff Attorney

**SUMMARY:** *The Proposed Committee Substitute for House Bill 796 would (1) amend the laws governing the hours of sale for alcoholic beverages, (2) require ABC permit holders to provide proof of legal residence in the United States and give Alcohol Law Enforcement greater notification of special one-time permit events, and (3) allow the issuance of permits without electoral approval on certain University of North Carolina properties.*

**CURRENT LAW:** Under current law, the following provisions apply to the hours for sale and consumption of alcohol:

- **Hours Generally-** It shall be unlawful to sell malt beverages, unfortified wine, fortified wine, or mixed beverages between the hours of 2:00 A.M. and 7:00 A.M., or to consume any of those alcoholic beverages between the hours of 2:30 A.M. and 7:00 A.M.
- **Sunday Hours-** It shall be unlawful to sell or consume alcoholic beverages on any licensed premises from the time at which sale or consumption must cease on Sunday morning until noon on that day.

**BILL ANALYSIS:** Section 1 of the PCS for House Bill 796 would change the law governing the sale and consumption of alcohol by distinguishing between on-premises and off-premises sales and setting different times for sale and consumption under those permits.

	Unlawful to Sell Monday – Saturday	Unlawful to Consume Monday – Saturday	Unlawful to Sell (or Consume) on Sunday
<b>On-Premise Location</b>	2:00 AM – 7:00 AM	2:30 AM – 7:00 AM	2:00 AM (2:30 AM) – 11:00 AM
<b>Off-Premise Location</b>	2:00 AM – 5:00 AM	Not Applicable	2:00 AM – 11:00 AM

**Section 2(a)** of the PCS would require ABC permit holders to have a valid social security number or be able to produce documentation of legal residency. **Section 2(b)** would prohibit the issuance of a special one-time permit less than 10 days before the event for which a special permit may be issued under G.S. 18B-1002 and would require notice to Alcohol Law Enforcement within three days of the issuance of the permit.

**Section 3** would allow permits for the sale of alcoholic beverages without electoral approval on certain University of North Carolina System properties, including convention centers, food markets, and restaurants, as well as the sale of beer and wine at performing arts centers with 2,000 or fewer seats.

**EFFECTIVE DATE:** Section 3 would be effective October 1, 2011. The remainder of the act would be effective when it becomes law. Prosecutions for offenses committed before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

*Brad Krehely, Staff Attorney in the Research Division, contributed to this summary.*

H796-SMME-9(CSME-26) v2

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 593  
Committee Substitute Favorable 6/1/11

Short Title: Allow County Grants for Broadband.

(Local)

Sponsors:

Referred to:

April 5, 2011

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A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE NASH COUNTY TO PROVIDE GRANTS TO PROMOTE  
BROADBAND IN UNSERVED AREAS FOR ECONOMIC DEVELOPMENT IN THE  
COUNTY.

The General Assembly of North Carolina enacts:

**SECTION 1.** A county may provide grants to unaffiliated providers of high-speed Internet broadband for the purpose of expanding service in unserved areas for economic development in the county. The grants shall be awarded on a technology neutral basis, shall be open to qualified applicants, and may require matching funds by the private provider. The county shall use only unrestricted general fund revenue for the grants.

**SECTION 2.** Nothing in this act authorizes a county to provide high-speed Internet broadband service.

**SECTION 3.** This act applies only to Nash County.

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





# HOUSE BILL 593: Allow County Grants for Broadband

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. Collins  
**Analysis of:** Second Edition

**Date:** June 15, 2011  
**Prepared by:** Heather Fennell  
Committee Counsel

**SUMMARY:** *House Bill 593 would authorize Nash County to provide grants to promote broadband in unserved areas for economic development purposes.*

**CURRENT LAW:** Counties have the authority to operate certain public enterprises under Article 15 of Chapter 153A. Counties may operate the following public enterprises:

- Water supply and distribution systems.
- Wastewater collection, treatment, and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.
- Solid waste collection and disposal systems and facilities.
- Airports.
- Off-street parking facilities.
- Public transportation systems.
- Stormwater management programs.

Under G.S. 160A-311, cities are authorized to operate and finance a number of public enterprises, including cable television systems. A North Carolina Court of Appeals case, *BellSouth Telecommunications, Inc. v. City of Laurinburg*, 168 N.C. App. 75, 606 S.E. 2d 721 (2005), interprets the statutory authority to operate a cable television system to include operation of a fiber optic network.

**BILL ANALYSIS:** House Bill 593 only applies to Nash County. The PCS would authorize Nash County to provide grants to unaffiliated providers to expand broadband service in unserved areas. The grants must be awarded on a technology neutral basis, open to all qualified applicants and may require matching funds by the private provider. The county must only use unrestricted general fund revenue for the grants.

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

*H593-SMTD-106(e2) v1*

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 16, 2011

The Committee on Rules and Operations of the Senate met during a recess on June 16, 2011 at 10:30 A.M. at Senator Apodaca's Chamber Desk. Fourteen members of the committee were present. Senator Apodaca presided.

**HOUSE BILL 385 – 2011 Omnibus Labor Law Changes-AB** – Senator Apodaca explained the bill. Senator Brown moved for a favorable report. Motion carried.

The meeting adjourned at 10:35 A.M.

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Senator Tom Apodaca, Chairman

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Carolyn Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 385

Short Title: 2011 Omnibus Labor Law Changes.-AB

(Public)

Sponsors: Representatives Howard and Brubaker (Primary Sponsors).

For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Commerce and Job Development.

March 17, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT MAKING OMNIBUS AMENDMENTS TO THE LABOR LAWS OF NORTH  
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 95-69.10(a) reads as rewritten:

6 "(a) This Article shall apply to all boilers and pressure vessels constructed, used, or  
7 designed for operation in this State including all new and existing installations unless  
8 specifically excluded by subsection (b) of this section. ~~which are operated in connection with~~  
9 ~~business buildings, institutional buildings, industrial buildings, assembly buildings, educational~~  
10 ~~buildings, public residential buildings, recreation buildings, other public buildings, and water~~  
11 ~~supplies. This Article shall also apply to boilers and hot water supply tanks, and heaters located~~  
12 ~~in hotels, motels, tourist courts, camps, cottages, resort lodges, and similar places whenever the~~  
13 ~~owner or operator advertises in any manner for transit patronage, or solicits such business for~~  
14 ~~temporary abode by transit patrons."~~

15 SECTION 2. G.S. 95-69.10(b)(17) reads as rewritten:

16 "(17) Coil-type hot water supply boilers of the instantaneous type where adequate  
17 safety relief valves and controls are installed if none of the following  
18 limitations are exceeded:

- 19 a. There is no ~~drum, header, or other steam space.~~ drum or header.  
20 b. No steam is generated within the coil.  
21 c. Maximum one-inch tube size.  
22 d. Maximum three-quarter-inch nominal pipe size.  
23 e. Maximum six-gallon nominal water storage capacity.  
24 f. Water temperature not to exceed 250°F.  
25 g. Maximum heat input does not exceed 400,000 Btu/hr or 110 kW.  
26 h. Maximum pressure of 260 psig."

27 SECTION 3. G.S. 95-69.10(c), (d), and (e) read as rewritten:

28 "(c) The construction and inspection requirements established by the Department of  
29 Labor shall not apply to hot water supply boilers or water heaters which are directly fired with  
30 oil, ~~gas gas,~~ or electricity, or to hot water supply storage tanks heated by steam or any other  
31 indirect means, if they are equipped with ASME Code and National Board certified safety  
32 relief valves ~~which and~~ do not exceed any of the following limitations:

- 33 (1) Heat input of 200,000 Btu/hr or 58.6 kW.  
34 (2) Repealed by Session Laws 2005-453, s. 2.  
35 (3) Nominal water capacity of 120 gallons.



\* H 3 8 5 - V - 1 \*

1 ~~provided that they are equipped with ASME Code and National Board certified safety relief~~  
 2 ~~valves.~~

3 (d) The construction requirements established by the Department of Labor shall not  
 4 apply to pressure vessels installed in this State prior to December 31, 1981, ~~that: if they are~~  
 5 equipped with ASME Code and National Board certified safety relief valves and:

- 6 (1) Are of one-piece, unwelded, forged construction;
- 7 (2) Are constructed before January 1, 1981, and operating or could be operated,  
 8 under the laws of any state or Canadian Province that has adopted one or  
 9 more sections of the ASME Code;
- 10 (3) Are transferred into this State without a change of ownership; and
- 11 (4) Are determined by the Chief Inspector to be constructed under standards  
 12 substantially equivalent to those established by the department at the time of  
 13 ~~transfer;~~transfer.

14 ~~provided that they are equipped with ASME Code and National Board certified safety relief~~  
 15 ~~valves.~~

16 (e) The construction requirements established by the Department of Labor shall not  
 17 apply to pressure vessels installed in this State prior to December 31, 1984, ~~that: if they are~~  
 18 equipped with ASME Code and National Board certified safety relief valves and:

- 19 (1) Are manufactured from gray iron casting material, as specified by the  
 20 American Society for Testing and Materials, (ASTM) 48-60T/30;
- 21 (2) Are constructed before December 31, 1967, and operating or could be  
 22 operated, under the laws of any state or Canadian Province that has adopted  
 23 one or more sections of the ASME Boiler and Pressure Vessel Code;
- 24 (3) Are transferred into this State without a change of ownership; and
- 25 (4) Are determined by the Chief Inspector to be constructed under standards  
 26 substantially equivalent to those established by the department at the time of  
 27 ~~transfer;~~transfer.

28 ~~provided that they are equipped with ASME Code and National Board certified safety relief~~  
 29 ~~valves."~~

30 SECTION 4. G.S. 95-69.11 is amended by adding a new subdivision to read:

31 "(17) To grant exceptions from the requirements of the rules and regulations  
 32 adopted under authority of this Article and to permit the use of other devices  
 33 when such exceptions and uses will not expose the public to an unsafe  
 34 condition likely to result in serious personal injury or property damage."

35 SECTION 5. G.S. 95-111.3(a) reads as rewritten:

36 "(a) The term "amusement device" shall mean any mechanical or structural device or  
 37 attraction that carries or conveys or permits persons to walk along, around or over a fixed or  
 38 restricted route or course or within a defined area including the entrances and exits thereto, for  
 39 the purpose of giving such persons amusement, pleasure, thrills or excitement. ~~The term shall~~  
 40 ~~include but not be limited to roller coasters, Ferris wheels, merry-go-rounds, glasshouses,~~  
 41 ~~waterslides, and walk-through dark houses.~~ This term shall not include any of the following:

- 42 (1) Devices operated on a river, lake, or any other natural body of ~~water;~~water.
- 43 (2) ~~Wavepools;~~Wavepools.
- 44 (3) Roller skating ~~rinks;~~rinks.
- 45 (4) Ice skating ~~rinks;~~rinks.
- 46 (5) Skateboard ramps or ~~courses;~~courses.
- 47 (6) Mechanical ~~bulls;~~bulls.
- 48 (7) Buildings or concourses used in laser ~~games;~~games.
- 49 (8) All terrain ~~vehicles;~~vehicles.
- 50 (9) ~~Motoreycles;~~Motorcycles.
- 51 (10) ~~Bicycles;~~ and Bicycles.

- 1 (11) ~~Mopeds.~~  
2 (12) Rock walls that are in a fixed, permanent location.  
3 (13) Zip-lines.  
4 (14) Funhouses, haunted houses, and similar walk-through devices that are  
5 erected temporarily on a seasonal basis and do not have mechanical  
6 components.  
7 (15) Playground equipment, including but not limited to soft contained play  
8 equipment, swings, seesaws, slides, stationary spring-mounted animal  
9 features, jungle gyms, rider-propelled merry-go-rounds, and trampolines."

10 SECTION 6. G.S. 95-111.8 reads as rewritten:

11 "**§ 95-111.8. Location notice.**

12 No person shall operate for the public or permit the operation for the public any device  
13 subject to the provisions of this Article after initial assembly or after reassembly at any location  
14 within this State without first notifying the Commissioner of the intention to operate for the  
15 public. Written notice of a planned schedule of operation or use shall be received at least 10  
16 working days prior to the first planned date of operation or use."

17 SECTION 7. G.S. 95-119(a) reads as rewritten:

18 "(a) A registration certificate shall be issued ~~without delay~~ annually when the  
19 Commissioner is satisfied that the facts stated in the application are sufficient to enable the  
20 Commissioner to fulfill his or her duties under this Article and that the device sought to be  
21 registered complies with the rules adopted pursuant to this Article. ~~Each registration certificate~~  
22 ~~shall expire on October 31 of the year next following the date of issuance."~~

23 SECTION 8. G.S. 95-130(11) reads as rewritten:

24 "(11) Any employee or representative of employees who believes that any period  
25 of time fixed in the citation given to his employer for correction of a  
26 violation is unreasonable has the right to contest such time for correction by  
27 filing a written and signed notice within 20-15 working days from the date  
28 the citation is posted within the establishment."

29 SECTION 9. G.S. 95-242 is amended by adding a new subsection to read:

30 "(b1) The Commissioner may reopen an investigation under this Article for good cause  
31 shown within 30 days of receipt of the right-to-sue letter. If an investigation is reopened  
32 pursuant to this section, the 90-day time limit set forth in G.S. 95-243(b) shall not commence  
33 until the new investigation is complete and either a new right-to-sue letter is issued or the  
34 Commissioner notifies the parties in writing that conciliation efforts have failed."

35 SECTION 10. G.S. 95-242(c) reads as rewritten:

36 "(c) An employee may make a written request to the Commissioner for a right-to-sue  
37 letter after ~~180-90~~ 90 days following the filing of a complaint if the Commissioner has not issued a  
38 notice of conciliation failure and has not commenced an action pursuant to G.S. 95-242."

39 SECTION 11. This act is effective when it becomes law.

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 16, 2011

The Committee on Rules and Operations of the Senate met on June 16, 2011 at 4:30 P.M. in room 1027 of the Legislative Building. Fourteen members of the committee were present. Senator Apodaca presided.

**HOUSE BILL 565 – Morehead City/Beaufort Boundary** – Representative McElraft explained the bill. Senator Preston moved for a favorable report. Motion carried.


**HOUSE BILL 652 – Omnibus Transportation Act** – Senator Apodaca brought the Proposed Committee Substitute before the committee. Senator Nesbitt moved for adoption and then moved to report the PCS favorably. Motion carried.

**HOUSE BILL 784 – Adjournment Resolution** – Senator brought the Proposed Committee Substitute to the committee and moved for adoption. Senator Apodaca explained the PCS. Senator Meredith moved to give the PCS a favorable report. Motion carried.

**HOUSE BILL 773 – Studies Act of 2011** – A proposed Committee Substitute was presented to the committee. Senator Meredith moved for adoption. Senator Brown moved to give the PCS a favorable report. Motion carried.

**HOUSE BILL 656 – Allow Sheriff's Assn. in LGERS** – Senator Apodaca brought a Proposed Committee Substitute before the committee. Senator Meredith moved to adopt the PCS. Senator Meredith then moved to give the PCS a favorable report. Motion carried.

The meeting adjourned at 5:00 P.M.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 565

Short Title: Morehead City/Beaufort Boundary. (Local)

Sponsors: Representative McElraft (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government, if favorable, Finance.

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A BOUNDARY LINE AGREEMENT AND LIMIT THE  
EXTRATERRITORIAL JURISDICTION AND ANNEXATION AUTHORITY WHICH  
MAY BE EXERCISED BY THE TOWNS OF MOREHEAD CITY AND BEAUFORT.

The General Assembly of North Carolina enacts:

**SECTION 1.** The Towns of Morehead City and Beaufort could have overlapping extraterritorial planning jurisdictions under the provisions of Article 19 of Chapter 160A of the General Statutes making a demarcation desirable beyond which the Towns shall not exercise such jurisdiction and the boundary beyond which the Towns may not annex.

**SECTION 2.(a)** The boundary limiting the extraterritorial planning jurisdictions and authority to annex by the Towns of Morehead City and Beaufort is hereby established as follows:

BEGINNING at Bulkhead Light ("1BH") in Beaufort Channel at the South end of the rock jetty at Radio Island, and runs thence with the centerline of Beaufort Channel as described in Chapter 721 of the Session Laws of 1967 to point 8 as shown on the Map entitled "Morehead City/Beaufort Channels Map" dated March 24, 2011, a copy of which is located in the offices of the Town Clerks of Morehead City and Beaufort, and said point having coordinates on the North Carolina Plane Grid System of Northing 359147.700 and Easting of 2697941.100, with a 0.00 elevation; thence northeastwardly to a point formed by the intersection of two lines, the first being a line beginning at the southwest corner of the property of the United States of America as shown on the map thereof entitled "Annexation Map of the National Oceanic & Atmospheric Administration Facilities at Pivers Island – Beaufort, North Carolina" dated September 25, 2001, prepared by Bob M. Jones, Professional Land Surveyor, and recorded in Map Book 31, Page 171, Carteret County Registry and running thence with the extension of the South property line of the United States of America South 79° 54' 00" West, and the second line starting at the southeast corner of the property described in the deed from Jan Mitchell Hekhuis et ux to June Mitchell Phillips et ux dated June 6, 2007, recorded in Book 1232, Page 51, Carteret County Registry and running thence with the extension of the East property line of this tract or lot South 4° West; thence from said point of intersection North 4° East to the South right-of-way margin of Old Causeway Road (SR 1205); thence with that right-of-way margin eastwardly to its intersection with the western right-of-way margin of Pivers Island Road; thence with that margin extended northwardly to the centerline of present U.S. Highway 70; thence with the centerline of present U.S. Highway 70 eastwardly to a point in the West side of the marked Gallants Channel as shown on the said Map entitled Morehead City/Beaufort Channels (hereafter "Marked Channel"); thence with the West margin of the Marked Channel



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1 to its intersection with a projection eastwardly of the southern outside margin of the structure of  
2 the proposed new highway bridge across Gallants Channel; thence southwestwardly with said  
3 margin to its intersection with the North right-of-way margin of present U.S. Highway 70;  
4 thence westwardly with said highway margin to its intersection with the northern outside  
5 margin of the structure of the said new highway bridge across Gallants Channel; thence with  
6 the said bridge margin eastwardly to its intersection with the West margin of the Marked  
7 Channel; thence with said margin of the Marked Channel to a point in a line running due West  
8 from the southwest corner of the Beaufort-Morehead City Airport property.

9       **SECTION 2.(b)** The Town of Beaufort shall not have authority to exercise any  
10 planning jurisdiction under G.S. 160A-360 nor to annex anything west of the boundary set out  
11 in subsection (a) of this section, and the Town of Morehead City shall not have authority to  
12 exercise any planning jurisdiction under G.S. 160A-360 nor to annex anything east of the  
13 boundary set out in subsection (a) of this section.

14       **SECTION 3.** This act does not make any annexation of any privately owned  
15 property.

16       **SECTION 4.** In the event that private property is hereafter acquired by a  
17 governmental unit within the corridor of Gallants Channel Bridge Project 3307, such property  
18 shall be added to the respective boundaries of either Morehead City or Beaufort in accordance  
19 with the boundary line established in Section 2(a) of this act by adoption of an ordinance of the  
20 respective Town, which shall be recorded under G.S. 160A-39 or G.S. 160A-51 as appropriate.

21       **SECTION 5.** Nothing in this act shall be interpreted as establishing extraterritorial  
22 planning jurisdictional areas for either Town, but only as establishing a boundary beyond which  
23 the two Towns may not exercise either extraterritorial planning jurisdiction or annexation  
24 authority.

25       **SECTION 6.** The western municipal limits of the Town of Beaufort shall be  
26 coterminous with the boundary described in Section 2(a) of this act and shall extend from the  
27 northern terminus of the boundary directly east to the southwest corner of the  
28 Beaufort-Morehead City Airport property.

29       **SECTION 7.** The municipal limits of the Town of Morehead City shall be  
30 coterminous with the boundary described in Section 2(a) of this act, and shall run from its  
31 northern terminus westwardly along a straight line passing 500 feet North of Phillips Island to a  
32 point in the present municipal limits of Morehead City, and shall run from the southern  
33 terminus of the boundary described in Section 2(a) of this act to the southwest corner of the  
34 property of the United States of America at the South end of Radio Island.

35       **SECTION 8.** Nothing in this act limits the authority of either Town to enter into  
36 mutual aid agreements or other interlocal agreements authorized by law.

37       **SECTION 9.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 652  
Committee Substitute Favorable 6/8/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H652-CSR-39 [v.2]

6/16/2011 2:28:03 PM

Short Title: Omnibus Transportation Act.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE'S LAWS PERTAINING TO TRANSPORTATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-7(s) reads as rewritten:

"(s) Notwithstanding the requirements of subsection (b1) of this section that an applicant present a valid social security number, the Division shall issue a drivers license of limited duration, under subsection (f) of this section, to an applicant present in the United States who holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States if the applicant presents that valid documentation and meets all other requirements for a license of limited duration. Notwithstanding the requirements of subsection (n) of this section addressing background colors and borders, a drivers license of limited duration issued under this section shall bear a distinguishing mark or other designation on the face of the license clearly denoting the limited duration of the license."

SECTION 2. G.S. 20-51(6) reads as rewritten:

"(6) Any trailer or semitrailer attached to and drawn by a properly licensed motor vehicle when used by a farmer, his tenant, agent, or employee in transporting unginmed cotton, peanuts, soybeans, corn, hay, tobacco, silage, cucumbers, potatoes, all vegetables, fruits, greenhouse and nursery plants and flowers, Christmas trees, livestock, live poultry, animal waste, herbicides, fungicides, seeds, fertilizers or chemicals purchased or owned by the farmer or tenant for personal use in implementing husbandry, irrigation pipes, loaders, or equipment owned by the farmer or tenant from place to place on the same farm, from one farm to another, from farm to gin, from farm to dryer, or from farm to market, and when not operated on a for-hire basis. The term "transporting" as used herein shall include the actual hauling of said products and all unloaded travel in connection therewith."

SECTION 3. G.S. 20-51 is amended by adding a new subdivision to read:

"(17) A header trailer when transported to or from a dealer, or after a sale or repairs, to the farm or another dealership."

SECTION 4. G.S. 20-88 is amended by adding a new subsection to read:



1        "(m) Any vehicle weighing greater than the limits found in G.S. 20-118(b), as authorized  
 2 by G.S. 20-118(c)(12), (c)(14), and (c)(15), must be registered for the maximum weight  
 3 allowed for the vehicle configuration as listed in G.S. 20-118(b). A vehicle driven in violation  
 4 of this subsection is subject to the axle group penalties set in G.S. 20-118(e). The penalties  
 5 apply to the amount by which the vehicle's maximum gross weight as listed in G.S. 20-118(b)  
 6 exceeds its declared weight."

7        SECTION 5. G.S. 20-118(c) reads as rewritten:

8        "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and 20-118(e).

9        ...  
 10        (5) The light-traffic road limitations provided for pursuant to subdivision (b)(4)  
 11 of this section do not apply to a vehicle while that vehicle is transporting  
 12 only the following from its point of origin on a light-traffic road to either one  
 13 of the two nearest highways that is not a light-traffic road. If that vehicle's  
 14 point of origin is a non-light-traffic road and that road is blocked by  
 15 light-traffic roads from all directions and is not contiguous with other  
 16 non-light-traffic roads, then the road at point of origin is treated as a  
 17 light-traffic road for purposes of this subdivision:

- 18        a. Processed or unprocessed seafood transported from boats or any  
 19 other point of origin to a processing plant or a point of further  
 20 distribution.  
 21        b. ~~Meats~~ Meats, live poultry, or agricultural crop products transported  
 22 from a farm to a processing plant or first-market.  
 23        c. Forest products originating and transported from a farm or from  
 24 woodlands to ~~first-market~~ without interruption or delay for further  
 25 packaging or processing after initiating transport.  
 26        d. Livestock or live poultry transported from their point of origin to a  
 27 processing plant or ~~first-market~~.  
 28        e. Livestock by-products or poultry by-products transported from their  
 29 point of origin to a rendering plant.  
 30        f. Recyclable material transported from its point of origin to a  
 31 scrap-processing facility for processing. As used in this subpart, the  
 32 terms "recyclable material" and "processing" have the same meaning  
 33 as in G.S. 130A-290(a).  
 34        g. Garbage collected by the vehicle from residences or garbage  
 35 dumpsters if the vehicle is fully enclosed and is designed specifically  
 36 for collecting, compacting, and hauling garbage from residences or  
 37 from garbage dumpsters. As used in this subpart, the term "garbage"  
 38 does not include hazardous waste as defined in G.S. 130A-290(a),  
 39 spent nuclear fuel regulated under G.S. 20-167.1, low-level  
 40 radioactive waste as defined in G.S. 104E-5, or radioactive material  
 41 as defined in G.S. 104E-5.  
 42        h. Treated sludge collected from a wastewater treatment facility.  
 43        i. Apples when transported from the orchard to the first processing or  
 44 packing point.  
 45        j. Trees grown as Christmas trees from the field, farm, stand, or  
 46 grove, and other forest products, including chips and bark, to  
 47 first a processing point.  
 48        k. Water, fertilizer, herbicides, fungicides, seeds, fuel, and animal waste  
 49 transported to or from a farm by a farm vehicle as defined in  
 50 G.S. 20-37.16(e)(3).

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(12) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions set out below:

- a. ~~Is hauling agricultural crops from the farm where the crop is grown to any market~~transporting an item listed in sub-subdivision(c)(5)b., d., i., j., or k. of this section within 150 miles of ~~that the farm.~~
- b. Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 13.
- b1. Does not operate on an interstate highway or exceed any posted bridge weight limits during transportation or hauling of agricultural products.
- c. Does not exceed a single-axle weight of ~~22,000~~ 26,000 pounds, a tandem-axle weight of ~~42,000~~ 44,000 pounds, or a gross weight of 90,000 pounds.
- d. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

(14) Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling aggregates from a distribution yard or a State-permitted production site located within a North Carolina county contiguous to the North Carolina State border to a destination in another state adjacent to that county as verified by a weight ticket in the driver's possession and available for inspection by enforcement personnel.
- b. Does not operate on an interstate highway or exceed any posted bridge weight limits.
- c. Does not exceed 69,850 pounds gross vehicle weight and 53,850 pounds per axle grouping for tri-axle vehicles. For purposes of this subsection, a tri-axle vehicle is a single power unit vehicle with a three consecutive axle group on which the respective distance between any two consecutive axles of the group, measured longitudinally center to center to the nearest foot, does not exceed eight feet. For purposes of this subsection, the tolerance provisions of subsection (h) of this section do not apply, and vehicles must be licensed in accordance with G.S. 20-88.
- d. Repealed by Session Laws 2001-487, s. 10, effective December 16, 2001.
- e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

(15) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle combination that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling wood residuals, including wood chips, sawdust, mulch, or tree bark from any site; is hauling raw logs to first market; is transporting bulk soil, bulk rock, sand, sand rock, or asphalt millings from a site that does not have a certified scale for weighing the vehicle; or is hauling animal waste products from the animal waste storage site to a farm or field.

- b. Does not operate on an interstate highway, a posted light-traffic road, except as provided by subdivision (c)(5) of this section, or exceed any posted bridge weight limits.
- c. Does not exceed a maximum gross weight 4,000 pounds in excess of what is allowed in subsection (b) of this section.
- d. Does not exceed a single-axle weight of more than ~~22,000~~ 26,000 pounds and a tandem-axle weight of more than ~~42,000~~ 44,000 pounds.
- e. ~~Is registered pursuant to G.S. 20-88 for the maximum weight allowed for the vehicle configuration as listed in subsection (b) of this section.~~

...  
**(17)** Subsections (b) and (e) of this section do not apply to a vehicle that meets all of the conditions below, but all other enforcement provisions of this Article remain applicable:

- a. Is hauling agriculture crops from farm to first market.
- b. Does not operate on an interstate highway or exceed any posted bridge weight limits.
- c. Consists of a two-axle vehicle that does not exceed a maximum gross weight of 37,000 pounds, a maximum single axle weight of no more than 27,000 pounds, with a length of at least 14 feet between the center of axle one and the center of axle two of the vehicle. For purposes of this subdivision, no additional weight tolerances as found in this section shall apply for gross weight, single axle weight, and the tolerance allowed by subsection (h) of this section shall not apply."

**SECTION 6.** G.S. 20-127 reads as rewritten:

**"§ 20-127. Windows and windshield wipers.**

...  
**(b) Window Tinting Restrictions.** – A window of a vehicle that is operated on a highway or a public vehicular area shall comply with this subsection. The windshield of the vehicle may be tinted only along the top of the windshield and the tinting may not extend more than five inches below the top of the windshield or below the AS1 line of the windshield, whichever measurement is longer. Provided, however, an untinted clear film which does not obstruct vision but which reduces or eliminates ultraviolet radiation from entering a vehicle may be applied to the windshield. Any other window of the vehicle may be tinted in accordance with the following restrictions:

- (1) The total light transmission of the tinted window shall be at least thirty-five percent (35%). A vehicle window that, by use of a light meter approved by the Commissioner, measures a total light transmission of more than thirty-two percent (32%) is conclusively presumed to meet this restriction.
- (2) The light reflectance of the tinted window shall be twenty percent (20%) or less.
- (3) Tinted film or another material used to tint the window shall be nonreflective and shall not be red, yellow, or amber.

**(b1)** Notwithstanding subsection (b) of this section, a window of a vehicle that is operated on a public street or highway and which is subject to the provisions of Part 393 of Title 49 of the Code of Federal Regulations shall comply with the provisions of that Part.

**(c) Tinting Exceptions.** – The window tinting restrictions in subsection (b) of this section apply without exception to the windshield of a vehicle. The window tinting restrictions

1 in subdivisions (b)(1) and (b)(2) of this section do not apply to any of the following vehicle  
2 windows:

- 3 (1) A window of an excursion passenger vehicle, as defined in  
4 G.S. 20-4.01(27)a.  
5 ~~(2) A window of a for hire passenger vehicle, as defined in G.S. 20-4.01(27)b.~~  
6 ~~(3) A window of a common carrier of passengers, as defined in  
7 G.S. 20-4.01(27)c.~~  
8 (4) A window of a motor home, as defined in G.S. 20-4.01(27)d2.  
9 (5) A window of an ambulance, as defined in G.S. 20-4.01(27)f.  
10 (6) The rear window of a property-hauling vehicle, as defined in  
11 G.S. 20-4.01(31).  
12 (7) A window of a limousine.  
13 (8) A window of a law enforcement vehicle.  
14 (9) A window of a multipurpose vehicle that is behind the driver of the vehicle.  
15 A multipurpose vehicle is a passenger vehicle that is designed to carry 10 or  
16 fewer passengers and either is constructed on a truck chassis or has special  
17 features designed for occasional off-road operation. A minivan and a pickup  
18 truck are multipurpose vehicles.  
19 (10) A window of a vehicle that is registered in another state and meets the  
20 requirements of the state in which it is registered.  
21 (11) A window of a vehicle for which the Division has issued a medical  
22 exception permit under subsection (f) of this section.

23 ...."

24 SECTION 7. G.S. 20-137.4A is amended by adding a new subsection to read:

25 "(a1) Motor Carrier Offense. – It shall be unlawful for any person to operate a  
26 commercial motor vehicle subject to Part 390 or 392 of Title 49 of the Code of Federal  
27 Regulations on a public street or highway or public vehicular area while using a mobile  
28 telephone or other electronic device in violation of those Parts. Nothing in this subsection shall  
29 be construed to prohibit the use of hands-free technology."

30 SECTION 8. G.S. 20-166.1(i) reads as rewritten:

31 "(i) Effect of Report. – A report of an accident made under this section by a person who  
32 is not a law enforcement officer is without prejudice, is for the use of the Division, and shall  
33 not be used in any manner as evidence, or for any other purpose in any trial, civil or criminal,  
34 arising out of the accident. Any other report of an accident made under this section may be used  
35 in any manner as evidence, or for any other purpose, in any trial, civil or criminal, as permitted  
36 under the rules of evidence. At the demand of a court, the Division must give the court a  
37 properly executed certificate stating that a particular accident report has or has not been filed  
38 with the Division solely to prove a compliance with this section.

39 ~~The reports made by persons who are not law enforcement officers or medical examiners~~  
40 ~~are not public records. The reports made by law enforcement officers and medical examiners~~  
41 ~~are public records and are open to inspection by the general public at all reasonable times.~~  
42 pursuant to this section are public records within the meaning of G.S. 132-1. Reports made  
43 pursuant to this section may not be released to any person making a request unless and until  
44 personal identifying information has been redacted from the report in compliance with the  
45 provisions of the federal Drivers Privacy Protection Act, 18 U.S.C. § 2721(b)(11) and (12), and  
46 G.S. 20-43.1. The Division must give a certified copy of one of these reports to a member of  
47 the general public who requests a copy any person entitled to a copy of such report and who  
48 pays the fee set in G.S. 20-42."

49 SECTION 9. G.S. 20-383 reads as rewritten:

50 "§ 20-383. Inspectors and officers given enforcement authority.

1 Only ~~designated inspectors and officers~~ inspectors, officers, and personnel of the  
 2 Department of Crime Control and Public Safety shall have the authority to enforce the  
 3 provisions of this Article and provisions of Chapter 62 applicable to motor transportation, and  
 4 they are empowered to make complaint for the issue of appropriate warrants, information,  
 5 presentments or other lawful process for the enforcement and prosecution of violations of the  
 6 transportation laws against all offenders, whether they be regulated motor carriers or not, and to  
 7 appear in court or before the North Carolina Utilities Commission and offer evidence at the  
 8 trial pursuant to such processes."

9 **SECTION 10.** G.S. 136-28.5 is amended by adding a new subsection to read:

10 "(c) Notwithstanding G.S. 132-1, bids and documents submitted in response to an  
 11 advertisement or request for proposal under this Chapter shall not be public record until the  
 12 Department issues a decision to award or not to award the contract."

13 **SECTION 11.** G.S. 136-89.213(a) reads as rewritten:

14 **"§ 136-89.213. Administration of tolls and requirements for open road tolls.**

15 (a) Administration. – The Authority is responsible for collecting tolls on Turnpike  
 16 projects. In exercising its authority under G.S. 136-89.183 to perform or procure services  
 17 required by the Authority, the Authority may contract with one or more providers to perform  
 18 part or all of the collection functions and may enter into agreements to exchange information  
 19 that identifies motor vehicles and their owners with one or more of the following entities: the  
 20 Division of Motor Vehicles of the Department of Transportation, another state, another toll  
 21 operator, or a toll collection-related organization.

22 (a1) Identifying information obtained by the Authority through an agreement is not a  
 23 public record and is subject to the disclosure limitations in 18 U.S.C. § 2721, the federal  
 24 Driver's Privacy Protection Act. The Authority shall maintain the confidentiality of all  
 25 information relating to electronic toll collection, including, but not limited to, personal  
 26 information, financial information, transactions and transaction history, and information related  
 27 to the collection of a toll or user fee, including, but not limited to, photographs or other  
 28 recorded images or automatic vehicle identification or driver account information generated by  
 29 radio-frequency identification or other electronic means. Notwithstanding the provisions of this  
 30 section:

- 31 (1) The account holder may examine his own account information, and the  
 32 Authority may use the account information only for purposes of collecting  
 33 and enforcing tolls.  
 34 (2) A party, by authority of a proper court order, may inspect and examine  
 35 confidential account information."

36 **SECTION 12.** Section 1 of S.L. 2011-71 is rewritten to read:

37 **"SECTION 1.** G.S. 20-118(c) is amended by adding a new subdivision to read:

38 '(16) Subsections (b) and (e) of this section do not apply to a vehicle or vehicle  
 39 combination that meets all of the conditions below, but all other enforcement  
 40 provisions of this Article remain applicable:

- 41 a. Is hauling unhardened ready-mixed concrete.  
 42 b. Does not operate on an interstate highway or a posted light-traffic  
 43 road, or exceed any posted bridge weight limits.  
 44 c. Has a single steer axle weight of no more than 22,000 pounds and a  
 45 tandem-axle weight of no more than 46,000 pounds.  
 46 d. Does not exceed a maximum gross weight of 66,000 pounds on a  
 47 three-axle vehicle with a length of at least 21 feet between the center  
 48 of axle one and the center of axle three.  
 49 e. Does not exceed a maximum gross weight of 72,600 pounds on a  
 50 four-axle vehicle with a length of at least 36 feet between the center



1 of axle one and the center of axle four. The four-axle vehicle shall  
2 have a maximum gross weight of 66,000 pounds on axles one, two,  
3 and three with a length of at least 21 feet between the center of axle  
4 one and the center of axle three.

5 f. For purposes of this subdivision, no additional weight allowances as  
6 found in this section shall apply for gross weight, single steer axle  
7 weight, and tandem-axle weight, and the tolerance allowed by  
8 subsection (h) of this section shall not apply."

9 **SECTION 13.** G.S. 147-86.23 reads as rewritten:

10 **"§ 147-86.23. Interest and penalties.**

11 A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a  
12 past-due account receivable from the date the account receivable was due until it is paid. A  
13 State agency shall add to a past-due account receivable a late payment penalty of no more than  
14 ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty  
15 for good cause shown. If another statute requires the payment of interest or a penalty on a  
16 past-due account receivable, this section does not apply to that past-due account receivable.  
17 This section does not apply to money owed to the University of North Carolina Health Care  
18 System for health care ~~services~~ or to the North Carolina Turnpike Authority for money  
19 owed to the Authority for tolls."

20 **SECTION 14.** Notwithstanding 19A NCAC 02D .0607(e)(3), the Department of  
21 Transportation may permit sealed ship containers as nondivisible loads as allowed by Federal  
22 Highway Administration policy. All Department of Transportation permitting rules applied to  
23 other nondivisible loads shall also apply to sealed ship containers.

24 **SECTION 15.** The Department of Transportation shall initiate the process to  
25 conform the North Carolina Administrative Code to this act by striking the words "not to  
26 exceed 94,500 pounds" from the first sentence of 19A NCAC 02D .0607(e)(3).

27 **SECTION 16.** The provisions of S.L. 2009-345, as they apply to ferry vessels  
28 operated by the North Carolina Department of Transportation, become effective June 30, 2013.

29 **SECTION 17.** Section 10 of this act becomes effective July 1, 2011, and applies to  
30 bids and documents submitted for advertisements and requests for proposal that are advertised  
31 or requested on or after that date. Section 1 of this act becomes effective January 1, 2012, and  
32 applies to drivers licenses issued on or after that date. Sections 2, 3, 4, 5, 6, and 7 of this act  
33 become effective December 1, 2011, and apply to offenses committed on or after that date. The  
34 remainder of this act is effective when it becomes law.  
35

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**SENATE JOINT RESOLUTION 784\*  
PROPOSED COMMITTEE SUBSTITUTE S784-PCS75194-LB-78**

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Sponsors:

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Referred to:

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June 16, 2011

1 A JOINT RESOLUTION ADJOURNING THE 2011 REGULAR SESSION OF THE  
2 GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS  
3 THAT MAY BE CONSIDERED UPON RECONVENING.

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

5 **SECTION 1.** When the Senate and the House of Representatives adjourn on  
6 Friday, June 17, 2011, they stand adjourned to reconvene on Wednesday, July 13, 2011, at  
7 12:00 noon.

8 **SECTION 2.** During the regular session that reconvenes on Wednesday, July 13,  
9 2011, only the following matters may be considered:

10 (1) Bills:

- 11 a. Revising the Senate districts and the apportionment of Senators  
12 among those districts and containing no other matter.  
13 b. Revising the Representative districts and the apportionment of  
14 Representatives among those districts and containing no other matter.  
15 c. Revising the districts for the election of members of the House of  
16 Representatives of the Congress of the United States and the  
17 apportionment of Representatives among those districts and  
18 containing no other matter.

19 (2) Bills returned by the Governor with her objections under Section 22 of  
20 Article II of the Constitution of North Carolina, but solely for the purpose of  
21 considering overriding of the veto upon reconsideration of the bill.

22 (3) Filling of vacancies on the State Board of Community Colleges in  
23 accordance with G.S. 115D-2.1(b)(4)e.

24 (4) Bills in which the General Assembly makes an appointment or appointments  
25 to public office and which contain no other matter.

26 (5) Bills relating to election laws.

27 (6) A joint resolution further adjourning the 2011 Regular Session to a date  
28 certain.

29 **SECTION 3.** The House Committee on Redistricting and the Senate Committee on  
30 Redistricting may meet during the interim under Section 1 of this act, and any other standing  
31 committee or select committee may meet during the interim if authorized by the Speaker or  
32 President Pro Tempore pursuant to G.S. 120-19.6.

33 **SECTION 4.** This resolution is effective upon ratification.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 773  
PROPOSED SENATE COMMITTEE SUBSTITUTE H773-CSTH-12 [v.1]

6/16/2011 2:32:35 PM

Short Title: Studies Act of 2011.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR STUDIES BY THE HOUSE OF REPRESENTATIVES AND  
THE SENATE, STATUTORY OVERSIGHT COMMITTEES AND COMMISSIONS,  
AND OTHER AGENCIES, COMMITTEES, AND COMMISSIONS.

The General Assembly of North Carolina enacts:

**PART I. TITLE**

**SECTION 1.1.** This act shall be known as "The Studies Act of 2011."

**PART II. LEGISLATIVE RESEARCH COMMISSION**

**SECTION 2.1.** The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor are listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2011 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study.

**SECTION 2.2.** Uranium Mining (S.J.R. 430 – D. Berger, Jones) – The Commission may study the impacts on North Carolina were the Virginia General Assembly to lift the state's current moratorium on uranium mining in Virginia. The Legislative Research Commission may specifically consider the impacts on the Roanoke River Basin. In its study, the Commission may consider all of the following:

- (1) The potential impacts of a uranium mining operation in Virginia on North Carolina's economy, including whether any benefits would inure to North Carolina or would all benefits be confined to Virginia; whether any potential economic burdens would result for North Carolina's tourism industry, our other industries, and our property values; and whether any new industries or development would be reluctant to locate in North Carolina downstream and downwind of the proposed uranium mining site in Virginia.
- (2) The potential impacts of a uranium mining operation in Virginia on North Carolina's environment: our drinking water supplies, our surface waters, our groundwater, and our air quality; especially the potential impacts of the uranium mill tailings and other radioactive material flooding into the Roanoke River system and polluting Kerr Lake, Lake Gaston, and the remainder of the lower Roanoke River Basin extending to Albemarle Sound.
- (3) The potential impacts of a uranium mining operation in Virginia on North Carolina's agriculture activities, including farming, forestry, and aquaculture,



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1 and on its commercial fishing industry and on recreational fishing and  
2 hunting.

3 (4) The potential impacts of a uranium mining operation in Virginia on the  
4 health, safety, and well-being of North Carolina citizens, especially any  
5 health effects associated with the radioactive mill tailings that result from  
6 uranium mining.

7 (5) Any other issues the Commission considers relevant to this topic.

8 **SECTION 2.3.** State Leased Space (S.B. 612 – Daniel) – The Commission may  
9 study space leased by State agencies. Specifically, the Commission may examine at least the  
10 following:

11 (1) The amount, cost, and nature of space currently leased by State agencies.

12 (2) The procedure by which real property is leased by and allocated among State  
13 agencies.

14 (3) Laws relating to the lease of real property by State agencies.

15 (4) Whether the current manner of leasing real property is cost effective and  
16 whether or not more cost effective alternatives are available in certain cases.

17 (5) Whether or not the current amount of space leased by the State could be  
18 reduced by more efficiently utilizing State-owned facilities.

19 **SECTION 2.4.** North Carolina Alcoholic Beverage Control System (Apodaca) –  
20 The Commission may study the following aspects of the current State and local alcoholic  
21 beverage control (ABC) in North Carolina:

22 (1) Whether the involvement in the distribution and sale of spirituous liquor is a  
23 core government function of State and local government.

24 (2) The privatization and divestiture of the ABC system, including potential  
25 recurring and non-recurring revenue from the divestiture of the ABC  
26 system's current assets.

27 (3) A comparison of the North Carolina ABC system with other similarly  
28 situated states that have recently privatized or studied the privatization of  
29 their ABC systems, including the states of Ohio and Virginia.

30 (4) The impact that privatizing the wholesale and retail components of the  
31 distribution of spirituous liquor would have on:

32 (a) State and local revenues used for providing core services;

33 (b) Mental health and substance abuse services;

34 (c) Underage drinking;

35 (d) Consumer access to spirituous liquor in both urban and rural areas;  
36 and

37 (e) Product availability.

38 (5) The potential for phasing-out of local governments from the operation of the  
39 retail distribution of spirituous liquor.

40 (6) An analysis of local ABC Boards and local governments that may benefit  
41 from divestiture of the ABC system.

42 (7) A comparison of the current excise taxes and bailment fees applied to  
43 spirituous liquor in North Carolina versus other states.

44 **SECTION 2.5.** North Carolina's Workers' Compensation Act (Goolsby) – The  
45 Commission may study issues related to North Carolina's Workers' Compensation Act,  
46 including the need for an adjustment of the benefit for permanent injury to an important bodily  
47 organ.

48 **SECTION 2.6.** Mechanics' Lien and Bond Laws (H.B. 489 – Pridgen) – The  
49 Commission may study North Carolina's mechanics' lien and bond laws and may make  
50 recommendations on ways to modernize and improve those laws.

1           **SECTION 2.7.** Records Preservation (S.B. 572 – Davis) – The Commission may  
2 study issues related to records preservation standards, procedures, and techniques.

3           **SECTION 2.8.** Wind Demonstration Project (S.B. 665 – Hise; H.B. 694 – Frye,  
4 Gillespie) – The Commission may study issues relating to the joint development and  
5 implementation of a wind demonstration project by and between Appalachian State University  
6 and the holder of a permit for a wind energy facility in Mitchell County that has been issued by  
7 the Department of Environment and Natural Resources.

8           **SECTION 2.9.** Consolidation of Domestic Violence Commission/Council for  
9 Women (H.B. 757 – Cook) – The Commission may study the issues involved in consolidating  
10 the North Carolina Council for Women and the Domestic Violence Commission into one  
11 commission to improve services to victims of domestic violence and sexual assault and services  
12 to displaced homemakers. If the Legislative Research Commission determines that  
13 consolidating the North Carolina Council for Women and the Domestic Violence Commission  
14 into one commission would improve services to domestic violence and sexual assault victims  
15 and to displaced homemakers, then the Legislative Research Commission may further consider  
16 the composition and duties of the new consolidated commission and the statutory changes  
17 necessary to achieve consolidation. In its study, the Legislative Research Commission may  
18 consider the matters contained in the First Edition of House Bill 757 of the 2011 Regular  
19 Session of the General Assembly, including whether to consolidate funds for domestic  
20 violence, sexual assault, and displaced homemakers and authorize the board of county  
21 commissioners in each county to use the funds to make quarterly grants to any of the following:

- 22           (1) A center for victims of domestic violence.
- 23           (2) A center for victims of sexual assault or rape crisis.
- 24           (3) A center for displaced homemakers.
- 25           (4) A center providing any combination of services as described in subdivisions  
26           (1) through (3) of this section.

27           **SECTION 2.10.** Bankruptcy Reform Act of 1978 (Apodaca) – The Commission  
28 may study matter related to North Carolina's conformance with the Bankruptcy Reform Act of  
29 1978.

30           **SECTION 2.11.** Efficiencies in State Government (Hise) – The Commission may  
31 study additional uses of analytics to increase efficiencies across all areas of state government  
32 including performance management; waste, fraud, and abuse; outcome management; and  
33 outsourcing.

34           **SECTION 2.12.** Relocation of Power Lines (H.B. 749 – McComas) – The  
35 Commission may study the cost and feasibility of burying or raising the power lines that  
36 currently extend across the Cape Fear River from Progress Energy's Brunswick Nuclear Plant  
37 toward Castle Hayne so as to allow ocean-going vessels to travel past the point that the power  
38 lines cross the river. In conducting the study, the Commission may consider methods to help  
39 Progress Energy move the power lines in a manner that maximizes the use of the Cape Fear  
40 River for commerce, including, but not limited to, grants to Progress Energy using the proceeds  
41 from the sale of unused State Ports Authority land. In conducting the study, the Commission  
42 may compare the costs of moving the power lines to the economic benefit to the State from  
43 increased shipping up the Cape Fear River. The costs of the study may be paid by the North  
44 Carolina State Ports Authority.

45           **SECTION 2.13.** Business Opportunity and Franchise Sales (H.B. 462 –  
46 McCormick) – The Commission may study the adequacy of current consumer protections for  
47 business opportunity and franchise sales in this State. In conducting the study, the Commission  
48 may consider the proposed reforms found in House Bill 2036 of the 2010 Regular Session of  
49 the 2009 General Assembly.

1           **SECTION 2.14.** Automatic Renewal Credit Card Contracts (H.B. 450 – Starnes) –  
2 The Commission may study automatic renewal provisions in contracts that provide credit card  
3 or other payment system processing for merchants. The Commission is authorized to review  
4 current practices in the formation of these contracts, determine whether the current practices  
5 should be amended by law, and examine any other issue the Commission deems relevant to this  
6 study.

7           **SECTION 2.15.** County Public-Private Partnerships (H.B. 592 – Collins, Howard,  
8 Tolson, Carney) – The Commission may study whether to allow counties to have general  
9 authority to enter into public-private partnerships and whether to allow counties to provide  
10 through a public-private partnership a wired or wireless network for the provision of  
11 communications services.

12           **SECTION 2.16.** Incapacity to Proceed (H.J.R. 612 – Randleman, Hurley) – The  
13 Commission may study the adequacy of the involuntary commitment process for a criminal  
14 defendant who lacks the capacity to proceed to trial. In its study, the Commission may  
15 consider the impact of current law on the limited resources of local law enforcement, hospitals,  
16 mental health facilities, and the State's court system while balancing the rights of the accused,  
17 victims, and the safety and the general welfare of the public. The Commission may also  
18 consider options for determining whether a defendant is likely to attain the capacity to proceed  
19 to trial in the foreseeable future and at what point in the process that determination should be  
20 made. The Commission may evaluate the statutory option of taking dismissals in these types of  
21 cases for defendants who are charged with nonviolent crimes and for defendants who are  
22 charged with violent crimes, how often that option is used, and at what point and under what  
23 circumstances that option should be used. In addition, the Commission may consider all of the  
24 following: issues related to transportation, including the frequency, distance, and cost  
25 associated with the required psychiatric evaluations; duration of involuntary commitment for  
26 defendants found incapable of proceeding to trial pursuant to Article 56 of Chapter 15A of the  
27 General Statutes and involuntarily committed pursuant to Part 7 of Article 5 of Chapter 122C  
28 of the General Statutes; and any other issues the Commission considers relevant to this topic.

29           **SECTION 2.17.** Inmate Labor (H.J.R. 728 – Bordsen) – The Commission may  
30 study the feasibility of using inmate labor to rehabilitate unused State-owned buildings and to  
31 salvage historical properties that have fallen into disrepair. As part of the study, the  
32 Commission may develop an inventory of eligible facilities for rehabilitation and those  
33 buildings plotted on a State map. The Commission may look at issues, including, but not  
34 limited to, the State purposes to be served by such expanded use of inmate labor, the value to  
35 inmate reentry when sentences are complete, the means by which inmates can qualify for such  
36 work, the logistics of using inmate labor for such projects, the role of the Community College  
37 System in training inmates for such projects, and the skills that can be taught and utilized and  
38 their overall usefulness to former inmates after the Department of Correction supervision ends.  
39 The Commission may also consider whether such expanded use of inmate labor should have a  
40 10-year sunset for purposes of reviewing the State benefit and the state of the economy at that  
41 time.

42           **SECTION 2.18.** Duties of the Human Relations Commission and the Civil Rights  
43 Division of the Office of Administrative Hearings (H.J.R. 745 – Floyd) – The Commission may  
44 study the duties and services of the North Carolina Human Relations Commission and the Civil  
45 Rights Division of the Office of Administrative Hearings to determine whether there is  
46 unnecessary overlap and duplication of services.

47           **SECTION 2.19.** Methamphetamine Labs (H.J.R. 835 – Horn; H.B. 825 – Glazier,  
48 Floyd, Carney, Weiss) – The Commission may study the proliferation of meth labs in this State  
49 and the dangers and hazards posed by meth labs to the safety and health of children who are

1 exposed to the manufacture of methamphetamine in those labs. In its study the Commission  
2 may consider causes for the increase in meth labs, how people are getting around the legislation  
3 enacted in recent years restricting the sale of pseudoephedrine, the manufacturing methods  
4 currently used to make methamphetamine, and the many situations and circumstances in which  
5 a child's health and safety is threatened by the child's proximity to the lab or association with  
6 individuals manufacturing methamphetamine.

7 **SECTION 2.20.** Protection of Masonboro Island (H.B. 901 – McComas) – The  
8 Commission may study the protection of Masonboro Island, an undeveloped barrier island  
9 owned by the State and located off the coast of North Carolina between Wrightsville and  
10 Carolina Beaches, in order to assure that the ecological systems of the island are maintained  
11 and preserved and to assure that the public retains access to the island. In conducting its study,  
12 the Commission may do all of the following:

- 13 (1) Determine what protections Masonboro Island currently receives with  
14 respect to its ecological systems and access to it by the public as an area that  
15 is included in the Coastal Reserve Program under Part 5 of Article 7 of  
16 Chapter 113A of the General Statutes.
- 17 (2) Determine the current and appropriate roles of the Division of Coastal  
18 Management of the Department of Environment and Natural Resources, the  
19 Coastal Resources Commission, and New Hanover County regarding these  
20 protections of Masonboro Island under subdivision (1) of this section.
- 21 (3) Consider what administrative rules and local government rules apply to the  
22 ecological protection of Masonboro Island or to its use by the public.
- 23 (4) Consider the specific changes to the rules under subdivision (3) of this  
24 section that are being considered or discussed by the Department of  
25 Environment and Natural Resources, the Coastal Resources Commission, or  
26 New Hanover County that could result in limiting public access to  
27 Masonboro Island or closing Masonboro Island to the public completely,  
28 what specific incidents and the location of these incidents that prompted  
29 such possible rule changes, and the costs to the Department, the Coastal  
30 Resources Commission, New Hanover County, and the public of adopting  
31 such possible rule changes.
- 32 (5) Determine how to balance the interests of protecting the ecology of  
33 Masonboro Island and making Masonboro Island available to citizens who  
34 enjoy its natural beauty and wish to participate in the protection of the sea  
35 turtles and other native species from natural predators.
- 36 (6) Consider whether Part 5 of Article 7 of Chapter 113A of the General  
37 Statutes or any administrative rules adopted pursuant to Part 5 should be  
38 amended to achieve the appropriate balance of interests as determined under  
39 subdivision (5) of this section.
- 40 (7) Consider whether adding Masonboro Island to the State Parks System would  
41 result in achieving the appropriate balance of interests as determined under  
42 subdivision (5) of this section.
- 43 (8) Any other issue the Commission considers relevant to its study.

44 **SECTION 2.21.** Third Party Sale of Electricity (H.B. 906 – Samuelson, Avila) –  
45 The Commission may study the feasibility and the desirability of authorizing sales of electricity  
46 by any third party that owns or operates the equipment of a renewable energy facility with two  
47 megawatts or less capacity when the renewable energy facility is located on a customer's  
48 property. This study may focus on the obstacles that currently prevent these third-party sales  
49 of electricity from renewable energy resources and the possible solutions that address these  
50 obstacles. One major obstacle the Commission may consider is whether the third party that

owns or operates the equipment of a renewable energy facility is subject to being regulated as a public utility under Chapter 62 of the General Statutes unless legislation is enacted to exclude the third-party owner or operator of the on-site generating equipment from such regulation. In its study, the Commission may consider all of the following issues:

- (1) Whether these third-party sales of electricity have the potential to substantially assist North Carolina in gaining greater energy security and energy independence through the use of indigenous resources available within the State.
- (2) Whether these third-party sales of electricity have the potential to sufficiently address on-peak demand loads to result in lowering costs for utility customers and avoiding the need to build additional generating facilities.
- (3) Whether the development of renewable energy in the State through third-party sales of electricity is likely to encourage private investment in new small scale generating facilities, thereby creating new property tax bases and creating new energy-related jobs throughout the State.
- (4) Whether these third-party sales of electricity would promote the development of renewable energy in North Carolina by allowing competition in markets that heretofore have been closed to competition and served exclusively by an energy supplier assigned to serve such market.
- (5) Any other issue the Commission considers relevant to its study.

**SECTION 2.22.** Metropolitan Sewerage/Water System (H.B. 925 – Moffitt) – The Commission may study whether requiring large cities that have a municipal water system and that are located entirely within a Metropolitan Sewerage District to convey that water system to the district will improve the efficiency of providing public services. The Commission may specifically examine House Bill 925, First Edition, 2011 Regular Session, and the following issues:

- (1) Financial stability of the current independent systems on a historic basis and the anticipated financial stability of a combined system.
- (2) Cost-benefit analysis of a combined system, including a review of assets and liabilities; personnel needs; equipment and infrastructure replacement schedules; facilities leased and owned; and fee schedules.
- (3) Debt obligation.
- (4) Taxpayer investments in the systems.
- (5) Audit of current financials.
- (6) Comparative analysis of the current system to existing public and private systems.
- (7) Conservation and water efficiency practices.
- (8) Best management practices.
- (9) The disposition of property in Article 12 of Chapter 160A of the General Statutes as it relates to a conveyance of a water system.
- (10) The transfer of permits when a water system is conveyed.
- (11) Any local acts applicable to the city or metropolitan sewerage district.
- (12) Other items the Commission deems relevant to the study.

**SECTION 2.23.** Communications with Accident Victims and Persons Charged with Infractions for Moving Violations Under Chapter 20 of the General Statutes (H.B. 87 – LaRoque, T. Moore) – The Commission may study all issues raised by House Bill 87, Sixth Edition.



1           **SECTION 2.24.** Establishing a Property Owners Protection Act (H.B. 652 –  
2 Moffitt, Brubaker, Brawley, McComas) – The Commission may study the establishment of a  
3 property owners protection act that would favor the free use of land. In conducting the study,  
4 the Committee may examine the award of attorneys' fees incurred by a property owner in an  
5 action challenging land-use regulations and prohibiting the enforcement of penalties against a  
6 property owner for an act not actually committed by the property owner. As a part of its study,  
7 the Commission may review the issues raised by the first edition of House Bill 652, 2011  
8 Regular Session.

9           **SECTION 2.25.** Designating the Director of the Administrative Office of the  
10 Courts as a Custodian of Court Records and Making Court Records Public Records and  
11 Available to Third Parties Upon Request and Payment of Reproduction Costs (H.B. 859 –  
12 Boles; S.B. 577 – Hartsell) – The Commission may study the issue of making the Director of  
13 the Administrative Office of the Courts a custodian of court records for public records purposes  
14 and making court records public records and available to third parties upon request and  
15 payment of the reproduction costs. As a part of its study, the Commission may review the  
16 issues raised by the first editions of House Bill 859/Senate Bill 577, 2011 Regular Session.

17           **SECTION 2.26.** Deeds of Trust Given to Manufactured Home Retailers or  
18 Residential Building Contractors (Stam, Collins) – The Commission may study whether a deed  
19 of trust given by an individual to a manufactured home retailer or residential building  
20 contractor to secure the individual's contractual obligation to purchase a residence is a  
21 "residential mortgage loan" requiring the retailer or contractor to be licensed as a mortgage  
22 lender or mortgage loan originator under the NC SAFE Act.

23           **SECTION 2.27.** Licensure of Naturopathic Doctors (H.B. 847 – Barnhart, Collins,  
24 Murry, Fisher; S.B. 467 – Hartsell, Apodaca) – The Commission may study the licensure of  
25 naturopathic doctors and other matters contained in the first edition of House Bill 847 of the  
26 2011 Regular Session.

27           **SECTION 2.28.** Ignition Interlock Requirement for First Time DWI Offenders  
28 (H.B. 591 – Ingle, Faircloth, Stevens) – The Commission may study issues associated with  
29 authorizing a limited driving privilege with an ignition interlock requirement for first time DWI  
30 offenders with a refusal revocation and may study the proposed law change found in the first  
31 and second editions of House Bill 591 of the 2011 Regular Session.

32           **SECTION 2.29.** Admission Ticket Reform (H.B. 308 – LaRoque, Guice, Tolson,  
33 and Glazier) – The Commission may study reforming the process of ticketing, selling, and  
34 reselling admission tickets, including the proposed statutory changes found in the first edition  
35 of House Bill 308 of the 2011 Regular Session.

36           **SECTION 2.30.** Health Plan Benefit Co-Payments for Chiropractic Services (H.B.  
37 496 – T. Moore, McLawhorn) – The Commission may study health plan benefit co-payments  
38 for chiropractic services and may study the proposed statutory changes found in the first edition  
39 of House Bill 496 of the 2011 Regular Session.

40           **SECTION 2.31.** Dentistry Management Arrangement Limits (H.B. 698 –  
41 Dockham, T. Moore, Gillespie; S.B. 655 – Pate, Allran) – The Commission may study dentistry  
42 management arrangement limits and may study the proposed statutory changes found in the  
43 first edition of House Bill 698 of the 2011 Regular Session.

44           **SECTION 2.32.** Legal Services Offered by Non-Profit Corporations (H.B. 714 –  
45 Torbett; S.B. 706 – Tucker) – The Commission may study the benefits to business, trade, and  
46 agricultural association members that legal advice provided by the association would provide,  
47 how current North Carolina State Bar rules would apply to attorneys employed by and  
48 providing member legal services for these associations, disclosure requirements that may be  
49 needed for members, whether other states allow nonprofits to offer legal services, and the rate

1 of compliance with the Rules of Professional Conduct in association practice as compared to  
2 law firms.

3 **SECTION 2.33.** Make Manufacture of Any Article or Product While Using Stolen  
4 or Misappropriated Information Technology an Unfair Act (H.B. 672 – Steen, T. Moore,  
5 Wilkins) – The Commission may study making the manufacture of any article or product while  
6 using stolen or misappropriated information technology an unfair act. The Commission may  
7 examine the following:

- 8 (1) The use of unfair practice laws.
- 9 (2) The use of stolen information technology by businesses that offer products  
10 for sale in the state of North Carolina.
- 11 (3) The effects on law-abiding businesses forced to compete with such  
12 companies.
- 13 (4) The proposed statutory changes found in the first edition of House Bill 672  
14 of the 2011 Regular Session.

15 **SECTION 2.34.** Organization and Administration of the North Carolina  
16 Department of Justice (Daughtry, Hager) – The Commission may study the organization and  
17 administration of the North Carolina Department of Justice.

18 **SECTION 2.35.** Elections Issues (Lewis) – The Commission may study issues  
19 concerning elections, including the election laws of the State, and the administration of those  
20 laws.

21 **SECTION 2.36.** Judicial Appointments (Rhyne, Daughtry, Stam, Murry) – The  
22 Commission may study issues concerning judicial appointment, election, selection, and  
23 retention.

24 **SECTION 2.37.** Underground Damage Prevention – The Commission may review  
25 the effectiveness of current provisions in Article 8 of Chapter 87 of the North Carolina General  
26 Statutes in preventing third-party damage to underground utility facilities. Upon completion of  
27 the review, the Commission may recommend statutory changes to make Article 8 of Chapter 87  
28 more effective, addressing the following:

- 29 (1) Improved definitions for greater clarity.
- 30 (2) Clear assignment of responsibility for enforcement.
- 31 (3) Effective financial penalties to discourage noncompliance.
- 32 (4) Mandatory membership in 811 "One Call" for all utility operators of  
33 underground facilities.
- 34 (5) Eliminating or minimizing exemptions in the statute.
- 35 (6) Implementing a 360 degree Positive Response System to improve  
36 communications regarding underground facility locate requests.
- 37 (7) Maintaining an appropriate "tolerance zone" for use of mechanized and  
38 non-mechanized equipment in excavations around existing facilities.
- 39 (8) Clearly defining scope of facilities covered by a single locate ticket, such as  
40 length and maximum number of customer service connections.
- 41 (9) Clearly defining response times and period of effectiveness for locate  
42 requests.
- 43 (10) Limiting local ordinances that purport to preempt provisions of Article 8 of  
44 Chapter 87.
- 45 (11) Requiring that all underground facilities installed after a specific date be  
46 locatable by electronic means.
- 47 (12) Implementing a statewide damage prevention training program for  
48 underground facility operators and excavators.
- 49 (13) Consistency with applicable provisions of the PIPES Act of 2006.

- 1 (14) Consistency with recently adopted underground damage prevention  
2 legislation in South Carolina.

3 **SECTION 2.38.** Legacy Costs (Folwell) – The Commission may study the long  
4 term effects of legacy costs to the State from, for example, pensions, the State Health Plan, and  
5 the Employment Security Commission.

6 **SECTION 2.39.** Certificate of Need Process and Related Hospital Issues (H.B. 743  
7 – Steen, Current, Glazier, Torbett; H.B. 812 – Torbett) – The Commission may study the law  
8 and process for issuing a Certificate of Need (CON) for new construction, expansion, or  
9 renovation of health care facilities and related issues involving hospital expansion. The  
10 Commission may specifically examine House Bill 743, First Edition; 2011 Regular Session;  
11 House Bill 812, First Edition, 2011 Regular Session; and the following:

- 12 (1) The legal requirements and process governing Department of Health and  
13 Human Services determinations on applications for CON, including an  
14 analysis of exceptions granted under policy AC-3 of the State Medical  
15 Facilities Plan as implemented by the Department of Health and Human  
16 Services.
- 17 (2) Issues relating to publicly owned hospitals, including determining the  
18 appropriate role of State-owned hospitals and the appropriate manner for  
19 public hospital authorities created under G.S. 131E-17 to operate beyond the  
20 boundaries of the local government that created the authority.
- 21 (3) Whether a hospital operating under a Certificate of Public Advantage should  
22 be required to comply with the same rules, policies, and limitations to each  
23 county in which it operates.
- 24 (4) The extent to which a publicly owned hospital should engage in business  
25 with an entity having a Certificate of Public Advantage or operating under  
26 an exemption under the CON laws of the State.
- 27 (5) Any other matter reasonably related to (1) – (4) above, in the discretion of  
28 the Commission.

29 **SECTION 2.40.** E-Procurement System (Barnhart) – The Commission may study  
30 the costs and effectiveness of the State's e-procurement system.

31 **SECTION 2.41.** Locksmith Licensing Act (H.B. 889 – Collins) – The Commission  
32 may study the potential changes to the Locksmith Licensing Act, including the proposed  
33 statutory changes found in House Bill 889, 2011 Regular Session.

34 **SECTION 2.42.** Homeowners' Association Foreclosures (H.B. 183 – R. Moore,  
35 Bryant, Hamilton, Gill) – The Commission may study the issue of foreclosure of property by  
36 homeowners associations for unpaid assessments liens based on unpaid homeowners  
37 association dues or related fees and charges. The Commission may examine alternatives to  
38 homeowners association assessment lien foreclosure as a part of its study. The Commission  
39 may also study issues related to foreclosure of property based on liens for homeowners  
40 association assessments, fees, and charges.

41  
42 **PART III. JOINT LEGISLATIVE HEALTH AND HUMAN SERVICES OVERSIGHT**  
43 **COMMITTEE**

44 **SECTION 3.1.** The Joint Legislative Health and Human Services Oversight  
45 Committee may study the topics listed in this Part and report its findings, together with any  
46 recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its  
47 convening.

48 **SECTION 3.2.** Tanning Beds and Adolescents (Forrester, Pate, Tucker) – The  
49 Committee may study the health impacts of tanning beds specifically as it relates to  
50 adolescents. In conducting the study, the Committee may:

- 1 (1) Include the testimony and participation of owners, manufacturers, and  
2 operators of tanning salons in all of the Committee's discussions and  
3 deliberations that concern tanning beds.
- 4 (2) Request that the State Health Director review the scientific literature  
5 concerning tanning beds and skin cancer as well as the scientific research  
6 concerning the effectiveness of regulation and other strategies to prevent  
7 adolescents from using tanning beds.
- 8 (3) Request that the State Health Director summarize his findings in (2) in  
9 testimony before the Committee.
- 10 (4) Review the availability and safety of tanning products available as  
11 alternatives to tanning beds for adolescents.
- 12 (5) Review other states' regulations regarding tanning beds and their  
13 effectiveness in educating parents and their impact on the use of tanning  
14 beds by adolescents.
- 15 (6) Consider the economic impact of current and potential regulation of tanning  
16 beds.
- 17 (7) Other issues the Committee deems relevant.

18 **SECTION 3.3.** In-Home and Community Based Mental Health Services for Youth  
19 (Hartsell) – The Committee may study the development and implementation of a demonstration  
20 program for mental health providers providing in-home and community based services to youth  
21 up to age 20 under the state Medicaid program, the purpose of which is to establish  
22 reimbursement and regulatory flexibility for providers that demonstrate beneficial outcomes for  
23 Medicaid recipients served.

24 **SECTION 3.4.** Radiologist Assistant Licensure (H.B. 878 – Wainwright; S.B. 672  
25 – Purcell) – The Committee may do the following:

- 26 (1) Determine the number of individuals who may qualify for licensure as  
27 radiologist assistants who perform medical imaging examinations and  
28 procedures for patients in this State.
- 29 (2) Determine the need for the licensure and regulation of radiologist assistants  
30 who perform medical imaging examinations and procedures to protect the  
31 citizens of North Carolina from unnecessary radiation and improper medical  
32 care related to medical imaging procedures.
- 33 (3) Determine appropriate levels of supervision and practice parameters for the  
34 radiologist assistant.
- 35 (4) Develop cost estimates for the establishment of a committee of the North  
36 Carolina Medical Board that will develop rules and issue licenses to  
37 radiologist assistants.
- 38 (5) Develop draft legislation to present to the 2012 Regular Session of the 2011  
39 General Assembly.
- 40 (6) Consider any other matters the Commission finds relevant to its charge.

#### 41 **PART IV. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE**

42 **SECTION 4.1.** The Joint Legislative Transportation Oversight Committee may  
43 study the topics listed in this Part and report its findings, together with any recommended  
44 legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.

45 **SECTION 4.2.** Liquid Salt Brine for Snow Removal (Hise) – The Committee may  
46 study the impact, including damage to automobiles, cost, and effectiveness, of using the liquid  
47 salt brine and salt types for inclement weather snow removal in Western North Carolina.  
48

1           **SECTION 4.3.** Retitling of Manufactured Homes Removed from Property  
2 (Goolsby) – The Committee may study ways to clarify the retitling of a manufactured home  
3 that is removed from real property after the original title has been cancelled.

4           **SECTION 4.4.** Moped Registration and Liability Insurance (H.B. 389 –  
5 Committee on Rules, Calendar, and Operations of the House) – The Committee shall study the  
6 need for a moped registration program. If the Committee finds that requiring motor vehicle  
7 registration for mopeds is a desirable public policy, then it should recommend the method of  
8 registering mopeds, the process for identifying the mopeds to be registered, the administrative  
9 agency responsible for registering mopeds, the need for financial responsibility for operation  
10 and registration, the need for safety and emissions inspections, and any other issues that relate  
11 to the administration of the moped registration, inspection, and insurance process.

12           **SECTION 4.5.** Federal and Local Funding for Local Mass Transit (Sponsor??) –  
13 The Committee may study issues related to the utilization of Federal and local funding sources  
14 for local mass transit projects, and the elimination of State funding for such projects.

15           **SECTION 4.6.** Passenger Rail Fare Subsidy (Steen – H.B. 865) – The Committee  
16 may study whether to eliminate the passenger rail fare subsidy. In its study, the Committee may  
17 study the proposed changes found in the first edition of House Bill 865 of the 2011 Regular  
18 Session.

19           **SECTION 4.7.** Life Cycle Cost Analysis (Murry) – The Committee shall study  
20 when the Department of Transportation shall implement revised policies on life cycle cost  
21 analysis including material cost indexing, open bidding for alternative pavement designs for all  
22 TIP projects that exceed \$500,000 in pavement costs, and the 30-year design periods and  
23 45-year analysis periods based upon actual historic schedules and costs.

## 24 25 **PART V. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE**

26           **SECTION 5.1.** The Joint Legislative Education Oversight Committee may study  
27 the topics listed in this Part and report its findings, together with any recommended legislation,  
28 to the 2012 Regular Session of the 2011 General Assembly upon its convening.

29           **SECTION 5.2.** Education Reform in North Carolina – (Tillman, Preston, Soucek)  
30 – It is the intent of the General Assembly that the children of North Carolina are ready to  
31 succeed when they start school, learn the appropriate foundational education in the early  
32 grades, are prepared for a career or higher education upon graduation, and have job and  
33 learning skills appropriate to the global economy. To implement this, the Joint Education  
34 Oversight Committee shall study the following and report to the 2012 Regular Session of the  
35 2011 General Assembly with a comprehensive plan, including implementation dates and  
36 schedules, to accomplish this vision:

37           (1) Elementary and secondary education. – It is a priority of the General  
38 Assembly that by the end of third grade, North Carolina children receive a  
39 foundational education in reading and mathematics upon which to build  
40 future educational achievement. Further, it is a priority that children in all  
41 grades receive quality education from high-quality teachers that are ready  
42 and able to teach and that children are promoted in an educationally  
43 appropriate manner. To that end, the Committee shall study the following:

- 44           a. Teacher tenure and its relationship with student performance.  
45           b. Teacher pay and its relationship with student performance, including  
46           the following:  
47           1. Salary supplements for employees with master's degrees and  
48           national board certification, and their relationship with  
49           student performance.



- 1 a. Ways to reduce the need for remedial or developmental education in  
2 the State's higher education institutions so that students and the State  
3 do not pay repeatedly for the same education, including the  
4 following:
- 5 1. Ensuring clear, rigorous secondary school standards, such as  
6 using college assessment tests in high school, including  
7 reviewing models in Florida and California, and using college  
8 assessment tests as entrance requirements for universities.
  - 9 2. Ways to hold high schools accountable for the higher  
10 education performance of their students, including requiring  
11 funding for developmental education to come from high  
12 schools.
  - 13 3. The most cost-effective way to provide remedial education in  
14 higher education, including funding summer term  
15 developmental courses at community colleges based on  
16 successful course completions, focusing remediation at the  
17 community colleges, and redirecting university appropriations  
18 for remedial education to the community colleges.
- 19 b. The most efficient and effective way to provide opportunities for  
20 high school students to access higher education, including the  
21 following:
- 22 1. Models of specific instructional pathways to higher  
23 education, including the following:
    - 24 I. A Career Technical Education Pathway (CTE),  
25 leading to a certificate or diploma aligned with one or  
26 more high school Tech Prep Career Clusters.
    - 27 II. A College Transfer Pathway leading to a college  
28 transfer certificate requiring successful completion of  
29 eight college transfer courses, including English and  
30 Mathematics.
    - 31 III. A school-specific pathway, including Learn and Earn  
32 schools, the iSchool of the University of North  
33 Carolina at Greensboro, and other Cooperative and  
34 Innovative High Schools approved under Part 9 of  
35 Article 16 of Chapter 115C of the General Statutes.
    - 36 IV. Other pathways, including the Governor's Proposed  
37 Career and College Promise Program.
  - 38 2. Revising statutes for high school students in higher education.
- 39 (3) Higher education. – It is a priority of the General Assembly that the State's  
40 higher education system produce college graduates in the most efficient and  
41 effective manner possible, to improve productivity and public accountability  
42 for performance in postsecondary education, and ultimately to increase the  
43 educational level and earning potential of the State. To that end, the  
44 Committee shall study the following:
- 45 a. A revised set of accountability measures and performance standards  
46 by which to evaluate and measure student progress and student  
47 success in the North Carolina Community College System, as  
48 described in Section 8.14 of this act, including how to incorporate  
49 these measures into formula funding.

- b. Ways to increase transparency in the university system spending and revenues.
- c. Other states' performance funding systems, including efforts in Ohio, Florida, and Washington.
- d. Ways to increase college graduation rates by funding based on performance.
- e. The impact of directing more students to the community colleges for their freshman and sophomore years of a four-year degree, including requiring a certificate of transfer from the North Carolina Community College System before transferring to The University of North Carolina System.
- f. Faculty class loads at the constituent institutions of the North Carolina Community College System and The University of North Carolina.

In all cases, any program implemented needs to be structured so that ongoing, evaluable performance and outcome data is available.

**SECTION 5.3.** Lowering the Maximum Age of Initial Enrollment in Public Schools (H.J.R. 456 – Fisher, Cotham, Gill, Keever) – The Committee shall study whether the maximum initial age for enrollment in the public schools shall be lowered from age seven to age six.

**SECTION 5.4.** Home Schooled Students' Participation in Interscholastic Athletics (H.B. 253 – Dixon, Cleveland) – The Committee may study the participation of home schooled students in interscholastic athletics, including the proposed statutory changes found in the first edition of House Bill 253 of the 2011 Regular Session.

**SECTION 5.5.** Public School Issues (T. Moore) – The Committee may study the following issues:

- (1) Specific reasons why students drop out and reasons why at-risk students decide to stay in school. In studying this, the Committee may review dropout prevention programs implemented across the State to determine the effectiveness of different approaches.
- (2) The effectiveness of various diagnostic tools in improving student performance.
- (3) Size of local school administrative units and its relationship with student performance and school finance.
- (4) State funding formulas. In its examination and review, the Committee may determine which funding formulas maximize district flexibility and parental choice.
- (5) Course offerings, including the existence of duplicative courses in study in public and private secondary and postsecondary institutions in each local school administrative unit or county.
- (6) Alternative course delivery methods, including virtual schools and off-site courses.
- (7) Strategies to reduce the number of students that receive special education accommodations under the federal Individuals with Disabilities Education Act and its implementing regulations.
- (8) The advisability, costs, and barriers to increasing public access to value-added assessments such as the Education Value Added Assessment System and local school administrative unit financial information.
- (9) School and local school administrative unit accreditation and its relationship with student performance.



- 1 (10) The advisability, costs, and barriers to adding additional information to State  
2 Public School Report Cards, including productivity measures, compensation  
3 of personnel, and value-added scores.
- 4 (11) The amount of local school administrative unit resources used for advocacy,  
5 including funds paid to organizations that employ lobbyists and government  
6 relations personnel.
- 7 (12) The advisability, costs, potential savings, and barriers to privatization of  
8 local school administrative unit services, including food service,  
9 transportation, cleaning, landscaping, and resource officers.
- 10 (13) Strategies for measuring and strengthening academic achievement in middle  
11 schools.

12 **SECTION 5.6.** Increased Use of Advanced Placement (Holloway) – The  
13 Committee shall study the impact of the increased use of Advanced Placement (AP) on college  
14 enrollment and college retention.

15 **SECTION 5.7.** Effect of Student Mobility on Academic Performance in Urban  
16 School Districts (Folwell) – The Committee may study the effect of student mobility on  
17 academic performance in urban school districts.

18 **SECTION 5.8.** Bill of Rights for Children Who Are Deaf or Hearing Impaired  
19 (H.B. 625 – Blackwell, Farmer-Butterfield) – The Committee shall study and develop a bill of  
20 rights for children who are deaf or hearing impaired. In developing the bill of rights, the  
21 Committee shall consider requirements for Individual Education Programs for children who are  
22 deaf or hearing impaired, related services and program options for communication access, the  
23 continuum of alternative educational placements available, the availability of appropriate,  
24 direct, and ongoing language access to teachers of the deaf or hearing impaired, and other  
25 matters that the Committee determines are relevant to the study.

26  
27 **PART VI. ENVIRONMENTAL REVIEW COMMISSION**

28 **SECTION 6.1.** The Environmental Review Commission may study the topics  
29 listed in this Part and report its findings, together with any recommended legislation, to the  
30 2012 Regular Session of the 2011 General Assembly upon its convening.

31 **SECTION 6.2.** Consolidated Environmental Commission (S.B. 428 – Clodfelter) –  
32 The Commission shall study the desirability and the feasibility of consolidating the State's  
33 environmental policy-making, rule-making, and quasi-judicial functions into one  
34 comprehensive full-time environmental commission, perhaps to be modeled after the North  
35 Carolina Utilities Commission. As part of this study, the Environmental Review Commission  
36 shall evaluate all issues that pertain to a consolidation of the roles and duties that the current  
37 multiple environmental boards, commissions, and councils have. The Environmental Review  
38 Commission shall also consider any one or more of the following issues:

- 39 (1) Whether a consolidated environmental commission should have its own  
40 full-time staff.
- 41 (2) Whether a consolidated environmental commission would enhance the  
42 efficiency, objectivity, or fairness of environmental policy-making and  
43 regulation in North Carolina or reduce any unnecessary duplication.
- 44 (3) How a consolidated environmental commission would access the scientific  
45 expertise it would need to address the broad range of environmental subjects  
46 under its purview.
- 47 (4) What should be the number of commissioners to serve on such a  
48 commission, their qualifications, and their term length; how such  
49 commissioners should be appointed; and what should be the commission's  
50 duties.

1 (5) How such a commission and its staff would be funded.

2 (6) What is a reasonable timetable for creating and phasing in such a  
3 commission.

4 (7) Any other issues the Environmental Review Commission deems pertinent to  
5 its charge under this act.

6 **SECTION 6.3.(a)** Water and Sewer Service Providers (S.B. 564 – Clodfelter; H.  
7 B. 708 – Hamilton, Keever, R. Moore) – The Commission shall study the statutory models for  
8 establishing, operating, and financing certain organizations that provide water and sewer  
9 services in the State. The Commission shall specifically consider the statutory models for the  
10 following:

11 (1) Sanitary Districts (Part 2 of Article 2 of Chapter 130A of the General  
12 Statutes).

13 (2) Water and Sewer Authorities (Article 1 of Chapter 162A of the General  
14 Statutes).

15 (3) Metropolitan Water Districts (Article 4 of Chapter 162A of the General  
16 Statutes).

17 (4) Metropolitan Sewerage Districts (Article 5 of Chapter 162A of the General  
18 Statutes).

19 (5) County Water and Sewer Districts (Article 6 of Chapter 162A of the General  
20 Statutes).

21 (6) Any other similar organizations that provide water or sewer service in the  
22 State.

23 **SECTION 6.3.(b)** The Commission shall determine whether, how, and to what  
24 extent the number of statutory models should be reduced and consolidated. In making these  
25 determinations, the Commission shall consider and address any impacts such reduction and  
26 consolidation would have on the ongoing operations and financing of existing organizations for  
27 the provision of water and sewer services.

28 **SECTION 6.4.** Cleanup of Industrial Properties (H. B. 45 – Gillespie, Cook,  
29 Gibson) – The Commission, with the assistance of the Department of Environment and Natural  
30 Resources, shall study the cost of assessing and remediating inactive hazardous substance or  
31 waste disposal sites for which there is no financially viable responsible party. The Commission  
32 shall also identify potential sources of funds to address the projected need for assessment and  
33 remediation.

34 **SECTION 6.5.** Jordan Lake Reservoir Water Quality Rules (H.B. 873 – Jones,  
35 Ingle, Blust, Faircloth) – The Commission may study changes to the Jordan Lake Reservoir  
36 water quality rules, including the proposed changes found in the first edition of House Bill 873  
37 of the 2011 Regular Session.

38 **SECTION 6.6.** Allocation of Surface Water Resources (Samuelson) – The  
39 Commission, with the assistance of the Department of Environment and Natural Resources and  
40 the Department of Commerce, may study the allocation of surface water resources and their  
41 availability and maintenance in the State, including the relationship between sufficient, reliable  
42 water supply resources and economic development. In the conduct of this study, the  
43 Environmental Review Commission may employ independent consultants as provided in  
44 G.S. 120-32.02 and G.S. 120-70.44.

## 45 46 **PART VII. REVENUE LAWS STUDY COMMITTEE**

47 **SECTION 7.1.** The Revenue Laws Study Committee may study the topics listed in  
48 this Part and report its findings, together with any recommended legislation, to the 2012  
49 Regular Session of the 2011 General Assembly upon its convening.

1           **SECTION 7.2.** Exemptions of Pallets for Agricultural Use (Jackson) – The  
2 Committee may study matters related to the exemption of pallets for agricultural use from the  
3 sales tax.

4           **SECTION 7.3.(a)** Incentives for "Development Ready" Sites (H.B. 628 – Jeffus,  
5 Faircloth; S.B. 545 – Vaughan, Brunstetter) – The Committee may study the issue of enacting  
6 incentives, similar to tools for farmland preservation, brownfields redevelopment, historic  
7 preservation, and land conservation, to stimulate the creation of "development ready" sites.  
8 The study may include (i) discussion of property tax relief that maintains tax assessment values  
9 at agricultural value for "development ready" sites where horizontal infrastructure has been put  
10 in place so as to make a site ready for building design and (ii) discussion of income tax  
11 deductions or income tax credits for land preservation through land banking, purchase of  
12 options, or purchase of development rights; redevelopment of obsolete industrial buildings or  
13 areas; rezoning to appropriate zoning classifications; and infrastructure improvements to make  
14 sites "development ready."

15           **SECTION 7.3.(b)** In conducting the study, the Revenue Laws Study Committee  
16 cochairs are authorized to appoint an advisory subcommittee and to ask the Local Government  
17 Commission to designate an individual to participate in the subcommittee's deliberations in an  
18 ex officio, nonvoting capacity. The subcommittee may consist of no more than 18 members and  
19 may include no less than five members of the House of Representatives appointed by the  
20 Speaker of the House, no less than five members of the Senate appointed by the President Pro  
21 Tempore of the Senate, and individuals who are not members of the Committee or of the  
22 General Assembly, eight of whom represent the following interests:

- 23           (1) Piedmont Triad Partnership.
- 24           (2) North Carolina Economic Developers Association.
- 25           (3) Triad Real Estate & Building Industry Coalition.
- 26           (4) North Carolina Association of Realtors.
- 27           (5) NAIOP.
- 28           (6) North Carolina Association of County Commissioners.
- 29           (7) The North Carolina League of Municipalities.
- 30           (8) The North Carolina Tax Collectors Association.

31           **SECTION 7.4.** Property Tax Valuation Process (H.B. 796 – Moffitt) – The  
32 Committee may study the process of property valuation for the property tax purposes. The  
33 study may include the current exemptions and deferral programs that affect property tax  
34 liability, the use of true value as a standard for valuation, current bases for altering a  
35 determined property tax value, and differences that exist or are permitted to exist between  
36 county procedures that affect property taxation. The Committee cochairs are authorized to  
37 appoint an advisory subcommittee and to ask the Local Government Commission to designate  
38 an individual to participate in the subcommittee's deliberations in an ex officio, nonvoting  
39 capacity. The subcommittee may consist of no more than 10 members and may include no  
40 more than four individuals who are not members of the Committee or of the General Assembly.

41           **SECTION 7.5.** Click-Through Provision and a Remote Retailer's Obligation to  
42 Collect Sales Tax Based on Affiliate Contracts with North Carolina Residents (H.B. 867 –  
43 Starnes) – The Committee may study the click-through provision and a remote retailer's  
44 obligation to collect sales tax based on affiliate contracts with North Carolina residents.

45           **SECTION 7.6.** Allowing Individuals to Make Donations to the State of North  
46 Carolina for Governmental Services on the Income Tax Return (H.B. 877 – Stevens) – The  
47 Committee may study the issue of allowing individuals to make elections to donate all or part  
48 of their refund to the State of North Carolina for governmental services on their income tax  
49 return. As part of its study, the Committee may consider any governmental services selected by  
50 the Committee and governmental services provided by the following: the Department of

1 Cultural Resources, the Department of Health and Human Services, the Department of Public  
2 Instruction, the Department of Public Safety, the General Fund of the State of North Carolina,  
3 and The University of North Carolina.

4 **SECTION 7.7.** Tax Amnesty Program (H.B. 830 – Moffitt) – The Committee may  
5 study the creation of a tax amnesty period for taxpayers with overdue tax debts and may study  
6 the proposed law found in the first edition of House Bill 830 of the 2011 Regular Session.

7 **SECTION 7.8.** Study Food and Lodging Fees (McComas) – The Committee shall  
8 study the administration and financing of the State's food, lodging, and institution sanitation  
9 programs and rules. The study must include both of the following:

- 10 (1) The fee amount necessary to cover the cost of the State program and the  
11 actual operating costs of the local health departments.
- 12 (2) The most efficient manner to set, collect, and remit the fee between the State  
13 and local health departments.

14 **SECTION 7.9.** Tax Modernization (H.B. 248 – Rhyne) – The Committee may do  
15 the following:

- 16 (1) Review the existing State tax code to determine whether the existing tax  
17 system will be sufficient to keep pace with the operating and infrastructure  
18 needs of an effective and efficient public sector.
- 19 (2) Examine current income tax rates to determine whether the rate is negatively  
20 impacting our competitive position.
- 21 (3) Examine the tax bases to determine whether these bases should be  
22 broadened, allowing for a revenue-neutral modernization that produces more  
23 stable revenues during times of economic hardship.
- 24 (4) Evaluate the State's current system of economic incentives to ensure that  
25 each economic incentive in the State's current portfolio is providing a good  
26 return on investment and is effectively recruiting high-value jobs to the  
27 State.
- 28 (5) Study and recommend a permanent financing strategy considering the  
29 foregoing goals and the realities of the present-day economy.

30 **SECTION 7.10.** Tax Reform (H.B. 902 – Jones, Collins, Murry, Folwell) – The  
31 Committee may study the State tax system and may identify potential methods of eliminating  
32 the State income tax while enacting other taxes and tax systems that fairly distribute the tax  
33 burden and generate sufficient revenue to continue to pay for supplying vital services to the  
34 residents of North Carolina.

## 35 36 **PART VIII. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND** 37 **PUBLIC SAFETY**

38 **SECTION 8.1.** The Joint Legislative Oversight Committee on Justice and Public  
39 Safety may study the topics listed in this Part and report its findings, together with any  
40 recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its  
41 convening.

42 **SECTION 8.2.** Expunction Statutes (H.B. 273 – Bryant, Guice Pierce; S.B. 218 –  
43 Hartsell, Dannelly, Jones) – The Committee may review current expunction statutes relating to  
44 dismissals and findings of not guilty and make recommendations for expunction procedures so  
45 that these types of judicial outcomes are not unfairly prejudicial.

46 **SECTION 8.3.** The Committee may study issues related to reintegration of  
47 offenders following incarceration. Specifically, the Committee may study how North Carolina  
48 and other states address barriers facing ex-offenders in accessing jobs, housing, education,  
49 training, and services and determine best practices that reduce recidivism. In connection with  
50 this study, the Committee may consider and report on all of the following:

- 1 (1) The definition, accuracy, sale, and regulation of criminal records.
- 2 (2) Systemic and legal barriers to employment, housing, education, training, and
- 3 services.
- 4 (3) The availability and coordination of needed services and programs for
- 5 successful reentry.
- 6 (4) Best practices for reducing recidivism.
- 7 (5) Transitional services for ex-offenders with high and complex needs.
- 8 (6) Use and expansion of drug and mental health courts to divert from prison
- 9 people who need treatment.
- 10 (7) A comprehensive review of the collateral consequences for conviction of
- 11 criminal offenses, and where appropriate, the clarity, consistency, and
- 12 reduction of such consequences along with notice to offenders and court
- 13 officials of these consequences.
- 14 (8) The capacity, effectiveness, and replicability of statewide and
- 15 community-based programs to meet the risks and needs of both the
- 16 supervised and unsupervised population returning from prison.
- 17 (9) Status of recommendations from the StreetSafe Task Force, Justice
- 18 Reinvestment Project, and the Joint Select Committee on Ex-Offender
- 19 Reintegration Into Society that was established January 22, 2010.
- 20 (10) Best practices to address and reduce the disproportionate representation of
- 21 people of color in the offender population.

22 **SECTION 8.4.** Pretrial Release (East) – The Committee may study methods for  
23 achieving increased efficiencies and outcomes in the pretrial release process and procedures.

24 **SECTION 8.5.** The Committee may study the State Bureau of Investigation, the  
25 SBI Crime Laboratory, and all other operations of the North Carolina Attorney General's  
26 Office.

27 **SECTION 8.6.** Criminal Record Expunctions (H.J.R. 760 – Committee on Rules,  
28 Calendar, and Operations of the House) – The Commission may study whether current law  
29 strikes an appropriate balance between an employer's need for access to accurate criminal  
30 history information about potential employees and the need for a person who committed a  
31 relatively minor offense in the distant past to obtain employment in spite of the person's  
32 criminal history. If the Legislative Research Commission finds that it may be possible to  
33 achieve a better balance between these interests, then the Legislative Research Commission  
34 may further consider what type of expunction procedure may be developed and implemented  
35 that addresses the interests and concerns of employers, but also affords some appropriate relief  
36 to persons with a relatively minor past criminal conviction. In its study, the Commission may  
37 consider all of the following:

- 38 (1) The effect of a person's criminal record with regard to a person's ability to
- 39 obtain employment.
- 40 (2) The reasons that an employer may need to know about a potential
- 41 employee's criminal record.
- 42 (3) What types of criminal records may or may not be relevant with regard to
- 43 certain types of employment.
- 44 (4) What criminal offenses, if any, it may be reasonable to allow to be expunged
- 45 from a person's record, the time period or other criteria that should be used
- 46 to determine whether it is appropriate to allow the expunction, and whether
- 47 the offense should be completely erased from the criminal record so that the
- 48 person has no criminal record, or retained but limit the accessibility of the
- 49 record only for certain purposes.
- 50 (5) Any other issues the Commission considers relevant to this topic.

**PART IX. JOINT LEGISLATIVE COMMITTEE ON LOCAL GOVERNMENT**

**SECTION 9.1.** The Joint Legislative Committee on Local Government may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.

**SECTION 9.2.** Reuse of Existing Commercial Buildings (McCormick) – The Committee may study adaptive reuse of existing commercial buildings by focusing on cost effective solutions to allow reuse while not jeopardizing life safety concerns.

**SECTION 9.3.** Procedure for Incorporating Municipalities (S.B. 515 – Hartsell) – The Commission may study the procedure for incorporating municipalities, including the adequacy of the current procedure as provided in Article 20 of Chapter 120 of the General Statutes.

**PART X. JOINT REGULATORY REFORM COMMITTEE**

**SECTION 10.1.** The Joint Regulatory Reform Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.

**SECTION 10.2.** Auto Safety Glass Repair (S.B. 678 – Rouzer, Bingham) – The Committee may study the reform of auto safety glass repair and the role of steering by third party administrators.

**SECTION 10.3.** Occupational Licensing (H.B. 587 – Bradley, H. Warren, Torbett, Hastings) – The Commission may:

- (1) Identify outdated and unnecessary occupational licensing laws that should be repealed.
- (2) Identify existing occupations that are regulated that do not require licensing.
- (3) Study alternatives to occupational licensing laws that would work effectively.
- (4) Study to what extent occupational licensing laws create barriers for individuals, including low-income individuals, from entering into new occupations.
- (5) Study any other matters that the Commission deems relevant.

**PART XI. JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE**

**SECTION 11.1.** The Joint Legislative Program Evaluation Oversight Committee may direct the Program Evaluation Division of the North Carolina General Assembly to study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.

**SECTION 11.2.** Motor Fleet Management (S.B. 158 – Bingham) – The Committee shall include in the 2011-2012 Work Plan for the Program Evaluation Division of the General Assembly a study to evaluate the State's motor fleet management program in the Department of Administration to determine if any cost-savings can be effected by changing current operating procedures and to develop any plans or practices that, if implemented, would result in increased operating efficiency of the State's motor fleet management program.

**SECTION 11.3.** Community College Administration (S.B. 408 – Hartsell, Clary, Clodfelter) – The Committee shall include in the 2010-2011 Work Plan for the Program Evaluation Division of the General Assembly a study of the most efficient and effective way to administer the local community colleges system. In the course of the study, the Program Evaluation Division shall consider the advisability of consolidating community college administration and strategies for ensuring access for students.

1           **SECTION 11.4.** North Carolina Department of Environment and Natural  
2 Resources' Handling of Alcoa Contamination (S.B. 626 – Hartsell, Bingham) – The Committee  
3 shall include in the 2011-2012 Work Plan for the Program Evaluation Division of the General  
4 Assembly a study of the progress of cleanup and the Department of Environment and Natural  
5 Resources' handling of contamination at the facility owned by Alcoa Power Generating, Inc.,  
6 and the surrounding area, located in the Town of Badin in Stanly County.

7           **SECTION 11.5.** License Plate Agency Contracts (S.B. 661 – Bingham) – The  
8 Committee shall include in the 2011-2012 Work Plan for the Program Evaluation Division of  
9 the General Assembly a study and evaluation of the Division of Motor Vehicles' Commission  
10 Contract for the Issuance of Plates and Certificates program, authorized in G.S. 20-63(h), to  
11 determine the cost- effectiveness and savings that can be effected by changing or maintaining  
12 the current operating procedures and to develop any plans or practices that, if implemented,  
13 would result in increased operating efficiency of the Division of Motor Vehicles' Commission  
14 Contract program.

15           **SECTION 11.6.** Consolidation of Administrative Functions Among County  
16 Departments of Social Services (S.B. 410 – Hartsell, Clary, Clodfelter) – The Committee shall  
17 include in the 2011-2012 Work Plan for the Program Evaluation Division of the General  
18 Assembly a study of the consolidation of administrative functions among county departments  
19 of social services. In conducting the study, the Program Evaluation Division shall identify  
20 opportunities for functional consolidation, affected administrative functions, estimated cost  
21 savings, and requisite policy changes, if applicable, to accommodate the consolidation of  
22 administrative functions among county departments of social services. The Department of  
23 Health and Human Services, Division of Social Services, shall not consolidate these  
24 administrative functions except as directed by an act of the General Assembly.

25           **SECTION 11.7.** Current Structure of Governance Among Area Authorities  
26 Organized Under Chapter 122C of the General Statutes (S.B. 465 – Hartsell) – The Committee  
27 shall include in the 2011-2012 Work Plan for the Program Evaluation Division of the General  
28 Assembly a study of the impact of Medicaid waivers, LME consolidation, and LME expansion  
29 on the current governance model for area authorities, single-county programs, and multicounty  
30 programs established under Chapter 122C of the North Carolina General Statutes.

31           **SECTION 11.8.** Transportation Process and Funding (H.B. 811 – Torbett) – The  
32 Committee shall direct the Program Evaluation Division to assess the Department of  
33 Transportation's road construction processes, from project inception to project completion,  
34 including design and engineering, median placement process, and maintenance and repair  
35 projects, to determine if any cost savings can be effected by changing current operating  
36 procedures, by modifying the purchasing of building materials, including quantity and quality,  
37 by evaluating land purchases or condemnations and the laws, rules, and regulations for land  
38 acquisition for easements or setbacks, by evaluating the current and future financing factors  
39 associated with transportation projects, by evaluating the selection of transportation projects  
40 and vendors for the build process, by evaluating the environmental study process, by evaluating  
41 the process for time calculations from project start to finish, including the contracting process,  
42 and the development of any other plans or practices that, if implemented, would result in  
43 increased operating efficiency of the Department of Transportation's road construction process,  
44 including the maintenance and repairs program.

45           **SECTION 11.9.** Spectral Fluorescence Signature (SFS) Drug Analysis (H.B. 756 –  
46 Hamilton, McComas, Faircloth, Jordan) – The Committee shall include in the 2011-2012 Work  
47 Plan for the Program Evaluation Division of the General Assembly a study of the use of  
48 spectral fluorescence signature (SFS) drug analysis as evidence in court and as a method of  
49 reducing time between arrest and adjudication.

50

**PART XII. JOINT LEGISLATIVE ELECTIONS OVERSIGHT COMMITTEE**

**SECTION 12.1.** The Joint Legislative Elections Oversight Committee may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.

**SECTION 12.2.** Feasibility of Requiring Certain Reports to Be Filed Electronically (H.B. 346 – Randleman) – The Committee shall study the feasibility and applicability of requiring electronic filing of all reports required to be filed with the State Board of Elections under G.S. 163-278.9, regardless of the amount.

**PART XIII. JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS**

**SECTION 13.1.** The Joint Legislative Commission on Governmental Operations may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.

**SECTION 13.2.** Nonprofit Corporations (H.B. 100 – L. Brown, Cleveland; S.B. 460 – Brock) – The Commission may study and recommend the criteria for awarding grants to non-State entities that are nonprofit corporations. At a minimum, the Commission may consider the following in its study:

- (1) That at least thirty-five percent (35%) of the funding for a nonprofit corporation receiving State funds should come from private sources.
- (2) That the administrative expenses of a nonprofit corporation receiving State funds do not exceed fifteen percent (15%) of the total budget or receipts for the nonprofit corporation.
- (3) Possible sanctions for nonprofits receiving State funds that fail to meet the criteria established by the State.
- (4) Any other matters the Committee deems appropriate.

**SECTION 13.3.** Compensation of State Boards and Commissions Employees (H.B. 836 – McElraft) – The Commission may examine the compensation of the employees serving various State boards and commissions created by the General Statutes to determine the need to modify any of those compensation schemes in order to maximize the efficiency and effectiveness of State government. This examination may include, but is not limited to, reviewing the compensation and benefits of employees of the Lottery Commission, the Banking Commission, and the Credit Union Commission. Specifically, the Commission may study all of the following with respect to the compensation of State board and commission employees:

- (1) Pay, benefits, classification, and banding plans afforded those employees compared to (i) the compensation of other State employees and (ii) the compensation of similar positions and persons in other states.
- (2) Factors affecting how State boards and commissions make employee compensation decisions, including justifications for any salaries and benefits that appear to be excessive or unwarranted.
- (3) Costs and effects of differing, alternative, or special compensation systems established by boards and commissions upon State government as a whole.
- (4) Any other matters the Committee finds appropriate.

**PART XIV. NORTH CAROLINA COURTS COMMISSION**

**SECTION 14.1.** The North Carolina Courts Commission may study the topics listed in this Part and report its findings, together with any recommended legislation, to the 2012 Regular Session of the 2011 General Assembly upon its convening.



1           **SECTION 14.2.** Organization of the General Court of Justice (H.B. 900 – Haire) –  
2 The Commission shall study the current state of the General Court of Justice, focusing on the  
3 sentencing laws, workloads, case backlogs, and other issues relevant to the effective and  
4 efficient administration of justice and determine whether the current organization and operation  
5 of the State court system is in need of revision or adjustment in order to better serve the  
6 interests of justice. In conducting its study, the Courts Commission shall consult with the  
7 North Carolina Sentencing and Policy Advisory Commission, the National Center for State  
8 Courts, and any other agencies or entities the Commission deems appropriate to the conduct of  
9 its study.

10  
11 **PART XV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES,**  
12 **DIVISION OF WATER QUALITY TO STUDY RECLAIMED WATER ISSUES (S.B.**  
13 **606 – Stein, Stevens, Hunt)**

14           **SECTION 15.1.** The Division of Water Quality in the Department of Environment  
15 and Natural Resources shall study issues regarding the use of reclaimed water, the current  
16 permitting requirements for the discharge of wastewater and reclaimed water, and possible  
17 revisions to the permitting system that shall help to accommodate and encourage the beneficial  
18 use of reclaimed water while protecting against any potential threat to the environment or  
19 public health resulting from the use, overflow, or discharge of reclaimed water. The Division  
20 shall also consider other issues it considers relevant to this study. The Division of Water  
21 Quality shall conduct the study in conjunction with those persons and entities that the Division  
22 of Water Quality, in its discretion, deems to be stakeholders on these issues and shall provide  
23 the stakeholders an opportunity to express their concerns, comments, and suggestions regarding  
24 the issues and possible resolutions for those issues.

25           **SECTION 15.2.** The Division of Water Quality shall report its findings and  
26 recommendations, including any legislative recommendations, to the Environmental Review  
27 Commission by December 31, 2011.

28  
29 **PART XVI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO**  
30 **STUDY OIL AND GAS EXPLORATION IN THE STATE (S.B. 615 – Atwater, Blake)**

31           **SECTION 16.1.** The Department of Environment and Natural Resources shall  
32 study the issue of oil and gas exploration in the State. The Department shall report its findings  
33 and recommendations, including specific legislative proposals, to the Environmental Review  
34 Commission no later than October 1, 2011. At a minimum, the study shall include information  
35 on the following:

- 36           (1) Oil and gas reserves present in the Triassic Basin and in any other areas of  
37 the State.
- 38           (2) Methods of exploration and extraction of oil and gas, including hydraulic  
39 fracturing.
- 40           (3) Environmental impacts that shall result from exploration or extraction of oil  
41 and gas, and regulatory requirements advisable to address potential  
42 environmental impacts. In examining this issue, the Department shall gather  
43 information on regulatory programs in other states where oil and gas  
44 exploration or extraction is occurring, particularly with regard to the use of  
45 hydraulic fracturing for that purpose.
- 46           (4) Information on possible sources of revenue that could accrue to the benefit  
47 of the State in the event that drilling exploration for oil or natural gas were to  
48 take place in the State, including what taxes, fees, royalties, bonds, or  
49 assessments shall be appropriate in connection with the activity.

1 **PART XVII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO**  
2 **REPORT ON EFFECTS ON GROUND WATER QUALITY WHEN ALKALINE**  
3 **HYDROSIS IS USED AS A MEANS OF DISPOSAL OF HUMAN REMAINS (H.B. 703 –**  
4 **K. Alexander)**

5 **SECTION 17.1.** The Department of Environment and Natural Resources  
6 (Department) is directed to prepare a report of the effects on ground water quality when  
7 alkaline hydrolysis is used as a means of disposal of human remains, with emphasis on any  
8 changes in pH and lipids generated by discharge into municipal stormwater systems or private  
9 systems or directly into surface waters. The Department shall report its findings to the North  
10 Carolina Board of Funeral Service and the House of Representatives Environment Committee  
11 no later than February 1, 2012. No person shall use alkaline hydrolysis as a means of disposal  
12 of human remains in this State until the study conducted pursuant to this section is completed  
13 and the Department has adopted rules for the use of the process.  
14

15 **PART XVIII. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**  
16 **TO STUDY THE ISSUE OF OIL AND GAS EXPLORATION IN THE STATE AND**  
17 **THE USE OF DIRECTIONAL AND HORIZONTAL DRILLING AND HYDRAULIC**  
18 **FRACTURING (H.B. 242 – Stone, Gillespie)**

19 **SECTION 18.1.** The Department of Environment and Natural Resources shall  
20 study the issue of oil and gas exploration in the State and the use of directional and horizontal  
21 drilling and hydraulic fracturing for that purpose. The Department shall report its findings and  
22 recommendations, including specific legislative proposals, to the Environmental Review  
23 Commission no later than Shall 1, 2012. At a minimum, the study shall include information on  
24 the following:

- 25 (1) Oil and gas reserves present in the Triassic Basins and in any other areas of  
26 the State.
- 27 (2) Methods of exploration and extraction of oil and gas, including directional  
28 and horizontal drilling and hydraulic fracturing.
- 29 (3) Potential impacts on infrastructure, including roads, pipelines, and water and  
30 wastewater services. In analyzing potential impacts, the Department shall  
31 specifically examine the expected water usage from hydraulic fracturing,  
32 water resources in the area in which drilling shall occur, as well as existing  
33 water users in the area that shall be impacted by increased consumption of  
34 water for use in hydraulic fracturing.
- 35 (4) Potential environmental impacts, including constituents or contaminants that  
36 shall be present in the fluid used in the hydraulic fracturing process; the  
37 potential for the contamination of nearby wells and groundwater, as well as  
38 the options for disposal and reuse of the wastewater produced; stormwater  
39 management; the potential for emission of toxic air pollutants; impacts on  
40 wildlife; management and reclamation of drilling sites, including orphaned  
41 sites; management of naturally occurring radioactive materials (NORM)  
42 generated by the drilling and production of natural gas; and the potential for  
43 seismic activity in the area in which drilling shall occur. In examining this  
44 issue, the Department shall formulate regulatory requirements advisable to  
45 address potential environmental impacts and in doing so shall gather  
46 information on regulatory programs in other states where oil and gas  
47 exploration or extraction is occurring, particularly with regard to the use of  
48 hydraulic fracturing for that purpose.
- 49 (5) Potential economic impacts, including possible sources of revenue that could  
50 accrue to the benefit of the State in the event that drilling for oil or natural

1 gas were to take place in the State. In examining this issue, the Department  
2 shall gather information on (i) the number of jobs that shall be expected as a  
3 result from drilling activities in the State and (ii) what severance taxes, fees,  
4 royalties, bonds, or assessments shall be appropriate in connection with the  
5 activity. For any sources of revenue that shall be anticipated, the Department  
6 shall evaluate use of the revenue for the following purposes: funds necessary  
7 to implement an oil and gas regulatory program; funds dedicated to the  
8 conservation and preservation of land and water resources; funds dedicated  
9 to remediation of environmental contamination such as the Inactive  
10 Hazardous Sites Cleanup Fund; and funds dedicated to improving water and  
11 wastewater infrastructure across the State.

12 (6) Potential social impacts, including impacts of drilling operations on nearby  
13 communities and quality of life within those communities, recreational  
14 activities, and commercial and residential development.

15 (7) Potential oversight and administrative issues associated with an oil and gas  
16 regulatory program, including statutory authority necessary for  
17 implementation of such a program; funding requirements necessary to  
18 implement a stable and effective program; criteria for permit issuance or  
19 denial; frequency and scope of inspections; compliance and enforcement  
20 procedures; coordination of agency involvement to ensure efficient  
21 permitting and clear delineation of compliance responsibilities; opportunities  
22 for public participation; and data management.

23 (8) Consumer protection and legal issues relevant to oil and gas exploration in  
24 the State, including matters of contract law, mineral leases, and landowner  
25 rights.

26 (9) Any other pertinent issues that the Department deems relevant to oil and gas  
27 exploration in the State and the use of hydraulic fracturing for that purpose.  
28

29 **PART XIX. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO**  
30 **STUDY THE FEASIBILITY AND DESIRABILITY OF COUNTIES HAVING INPUT**  
31 **IN THE PROCESS OF REGULATING THE LAND APPLICATION OF BIOSOLIDS**  
32 **(Gillespie)**

33 **SECTION 19.1.** The Department of Environment and Natural Resources shall  
34 study the feasibility and desirability of counties having input in the process of any regulating  
35 the land application of biosolids or sludge as defined in G.S. 130A-290 resulting from the  
36 operation of a wastewater treatment facility. In conducting this study and in determining to  
37 what extent counties are able to have a role in this process, the Department shall examine the  
38 requirement under G.S. 143-215.1(a)(9), which requires a person to obtain a permit from the  
39 Environmental Management Commission prior to disposing of sludge resulting from the  
40 operation of a treatment works, including the removal of in-place sewage sludge from one  
41 location and its deposit at another location, consistent with the requirements of the federal  
42 Resource Conservation and Recovery Act. The Department shall also examine any  
43 requirements regarding the regulation of biosolids or sludge application activities under rules  
44 adopted pursuant to G.S. 143-215.1 or any other administrative rules that apply to the  
45 regulation of the land application of biosolids or sludge. This study will identify any federal or  
46 State law, federal regulation, or North Carolina administrative rules that currently prevent or  
47 limit county participation or oversight in the regulation of the land application of biosolids or  
48 sludge resulting from the operation of a wastewater treatment facility. No later than March 1,  
49 2012, the Department of Environment and Natural Resources shall report its findings and any

1 recommendations and legislative or administrative proposals to the Fiscal Research Division  
2 and to the Environmental Review Commission.

3  
4 **PART XX. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO**  
5 **STUDY IMPLEMENTATION OF STATE AND FEDERAL RULES RELATED TO**  
6 **EMISSIONS OF TOXIC AIR POLLUTANTS (McElraft)**

7 **SECTION 20.1.** The Department of Environment and Natural Resources shall  
8 study implementation of State and Federal rules related to emissions of toxic air pollutants. The  
9 study shall include:

- 10 (1) Identification of the permitted sources in North Carolina that emit toxic air  
11 pollutants as identified in rules adopted by the Environmental Management  
12 Commission and the permitted sources that emit hazardous air pollutants  
13 regulated under federal rules set out in 40 CFR Parts 61 and 63 as amended.  
14 (2) An explanation of the scope of the federal program regulating hazardous air  
15 pollutants as compared to the State air toxics program, including any  
16 differences in the sources and pollutants regulated under each program.  
17 (3) A comparison of how the State and Federal programs take public health  
18 impacts into consideration.  
19 (4) An analysis of any co-benefits of installing pollution control equipment  
20 required to comply with federal rules in reducing emissions of toxic air  
21 pollutants regulated under the state air toxics program.  
22 (5) A description of the additional pollution controls, operating conditions,  
23 modeling, or other measures required as a result of applying State air toxics  
24 rules to a source regulated under 40 CFR Parts 61 and 63 as amended,  
25 including the incremental costs and benefits of those additional controls,  
26 measures, or modeling.  
27 (6) Any other information relevant to an evaluation of the State air toxics  
28 program as applied to sources regulated under 40 CFR Parts 61 and 63 as  
29 amended.

30 **SECTION 20.2.** In conducting the study, the Department shall request input from  
31 industries and utilities that have permitted sources of air pollutants regulated under 40 CFR  
32 Parts 61 and 63 as amended or under State air toxics rules; local government; and individuals or  
33 agencies with expertise in the environmental and public health effects of those pollutants. The  
34 Department shall report the results of its study, including any recommendations for legislation,  
35 to the Environmental Review Commission of the General Assembly no later than Shall 1, 2012.

36  
37 **PART XXI. RESERVED**

38  
39 **PART XXII. DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY A**  
40 **REVISED PROCESS FOR COLLECTING DATA TO DEVELOP A WAITING LIST**  
41 **OF PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES (S.B.**  
42 **333 – Nesbitt)**

43 **SECTION 22.1.** By September 1, 2011, the Department of Health and Human  
44 Services (Department) shall study and submit a report to the Joint Legislative Oversight  
45 Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on a  
46 revised process for collecting data to develop a waiting list of persons with intellectual or  
47 developmental disabilities who are waiting for specific services. The revised process shall  
48 ensure all of the following:

- 1 (1) A simple, nonduplicated count of children and adults with intellectual or  
2 developmental disabilities across the State who are waiting for federally and  
3 State-funded services.
- 4 (2) A research-based waiting list supported by data that accurately reflects the  
5 number of individuals waiting for categories of services currently available  
6 in this State.
- 7 (3) Data showing the number of individuals who are potentially eligible to  
8 receive services under the CAP-MR/DD Waiver.

9 **SECTION 22.2.** Beginning September 30, 2012, and annually thereafter, the  
10 Department shall submit a report to the Joint Legislative Oversight Committee on Mental  
11 Health, Developmental Disabilities, and Substance Abuse Services on the waiting list data  
12 collected from each local management entity. The report shall include (i) an analysis of any  
13 service gaps revealed by the data, broken down by geographic location, age, and disability and  
14 (ii) plans to address these service gaps.

15  
16 **PART XXIII. DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY**  
17 **RECOMMENDATION 3.1 FROM THE NORTH CAROLINA INSTITUTE OF**  
18 **MEDICINE TASK FORCE ON THE CO-LOCATION OF DIFFERENT**  
19 **POPULATIONS IN ADULT CARE HOMES (S.B. 422 – Bingham)**

20 **SECTION 23.1.** The Department of Health and Human Services shall study  
21 Recommendation 3.1 from the North Carolina Institute of Medicine Task Force on the  
22 Co-Location of Different Populations in Adult Care Homes. The recommendation suggests  
23 that the Department develop a pilot program to evaluate the costs, quality, consumer  
24 satisfaction, and patient outcomes of a program that supports individuals who are in an adult or  
25 family care home and who want to move back into independent supported housing. The  
26 Department shall, but is not limited to, evaluate and report on the elements below that are  
27 contained in the recommendation.

- 28 (1) The feasibility, fiscal implication, and appropriate timing of the submission  
29 of a Medicaid 1915(i) State plan amendment or 1915(c) Home and  
30 Community-Based Services waiver to support individuals living in adult or  
31 family care homes for 90 or more days who would like to move back to  
32 more independent living arrangements.
- 33 (2) The feasibility and cost of developing and implementing a process to  
34 evaluate residents of adult care homes to determine whether they can live  
35 independently in the community with services, supports, counseling, and  
36 transition services.
- 37 (3) The policy implications, impact on current programs, and cost of developing  
38 and implementing an additional Special Assistance program option that  
39 would be similar to the existing Special Assistance in-home program but  
40 exempt from the limits established in S.L. 2007-323. The Department should  
41 explore whether this program could be targeted to address concerns the Task  
42 Force raised on co-location.
- 43 (4) A time line for implementing the pilot with all of the above elements in  
44 place, or a time line for phased implementation of the pilot. This time line  
45 shall include evaluation of the pilot as described in the Task Force  
46 recommendation.
- 47 (5) The fiscal requirements necessary to provide technical assistance to adult  
48 care homes interested in creating financially viable models to support people  
49 living more independently as recommended by the Task Force.

1 (6) The existence of statutory and regulatory barriers to independent living for  
2 people with disabilities.

3 (7) The goal and intended outcome of this pilot program.

4 **SECTION 23.2.** On or before October 1, 2012, the Department shall report on the  
5 elements outlined in this section to the North Carolina Study Commission on Aging and the  
6 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and  
7 Substance Abuse Services.

8  
9 **PART XXIV. DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY**  
10 **RECOMMENDATION 3.1 FROM THE NORTH CAROLINA INSTITUTE OF**  
11 **MEDICINE TASK FORCE ON THE CO-LOCATION OF DIFFERENT**  
12 **POPULATIONS IN ADULT CARE HOMES (H.B. 108 – Farmer-Butterfield, Weiss,**  
13 **Earle, Hurley)**

14 **SECTION 24.1.** The Department of Health and Human Services shall study  
15 Recommendation 3.1 from the North Carolina Institute of Medicine Task Force on the  
16 Co-Location of Different Populations in Adult Care Homes. The recommendation suggests  
17 that the Department develop a pilot program to evaluate the costs, quality, consumer  
18 satisfaction, and patient outcomes of a program that supports individuals who are in an adult or  
19 family care home and who want to move back into independent supported housing. The  
20 Department shall, but is not limited to, evaluate and report on the elements below that are  
21 contained in the recommendation.

22 (1) The feasibility, fiscal implication, and appropriate timing of the submission  
23 of a Medicaid 1915(i) State plan amendment or 1915(c) Home and  
24 Community-Based Services waiver to support individuals living in adult or  
25 family care homes for 90 or more days who would like to move back to  
26 more independent living arrangements.

27 (2) The feasibility and cost of developing and implementing a process to  
28 evaluate residents of adult care homes to determine whether they can live  
29 independently in the community with services, supports, counseling, and  
30 transition services.

31 (3) The policy implications, impact on current programs, and cost of developing  
32 and implementing an additional Special Assistance program option that  
33 would be similar to the existing Special Assistance in-home program but  
34 exempt from the limits established in S.L. 2007-323. The Department should  
35 explore whether this program could be targeted to address concerns the Task  
36 Force raised on co-location.

37 (4) A time line for implementing the pilot with all of the above elements in  
38 place, or a time line for phased implementation of the pilot. This time line  
39 shall include evaluation of the pilot as described in the Task Force  
40 recommendation.

41 (5) The fiscal requirements necessary to provide technical assistance to adult  
42 care homes interested in creating financially viable models to support people  
43 living more independently as recommended by the Task Force.

44 (6) The existence of statutory and regulatory barriers to independent living for  
45 people with disabilities.

46 (7) The goal and intended outcome of this pilot program.

47 **SECTION 24.2.** On or before October 1, 2012, the Department shall report on the  
48 elements outlined in this section to the North Carolina Study Commission on Aging and the  
49 Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and  
50 Substance Abuse Services.

1  
2 **PART XXV. DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF**  
3 **PUBLIC HEALTH TO ASSESS CHRONIC DISEASE MANAGEMENT OF STROKE**  
4 **PREVENTION IN ATRIAL FIBRILLATION (H.B. 697 – L. Brown)**

5 **SECTION 25.1.** The Department of Health and Human Services, Division of  
6 Public Health, shall within available appropriations, assess chronic disease management of  
7 stroke prevention in atrial fibrillation. The Department shall report its findings and  
8 recommendations to the 2012 Regular Session of the 2011 General Assembly upon its  
9 convening.

10  
11 **PART XXVI. DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF**  
12 **PUBLIC HEALTH TO STUDY THE BENEFITS AND RISKS ASSOCIATED WITH**  
13 **ALLOWING LICENSED HEALTH CARE PRACTITIONERS TO USE**  
14 **ALTERNATIVE MEDICINE IN TREATING PATIENTS (H.B. 412 –**  
15 **Farmer-Butterfield, Parmon, Hall)**

16 **SECTION 26.1.** The Department of Health and Human Services, Division of  
17 Public Health, in consultation with the North Carolina Medical Board, shall study whether  
18 health care practitioners licensed in this State should be allowed to use alternative medicine in  
19 treating patients. As part of this study, the Department shall (i) analyze the benefits and risks  
20 of alternative medicine, (ii) examine the experience of other states that currently allow licensed  
21 health care practitioners to use alternative medicine in treating patients, (iii) make  
22 recommendations about which licensed health care practitioners, if any, should be allowed to  
23 use alternative medicine in treating patients, and (iv) make recommendations about a process  
24 for approving specific types of alternative medicine that shall be used by health care  
25 practitioners in treating patients. The Department shall report its findings to the General  
26 Assembly by December 31, 2011. As used in this section, "alternative medicine" means a group  
27 of diverse medical and health care interventions, practices, products, or disciplines that are not  
28 generally considered part of conventional medicine.

29  
30 **PART XXVII. DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY A**  
31 **REVISED PROCESS FOR COLLECTING DATA TO DEVELOP A WAITING LIST**  
32 **FOR PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES**  
33 **(H.B. 76 – Earle, Farmer-Butterfield, M. Alexander, Brisson; S.B. 333 – Nesbitt)**

34 **SECTION 27.1.** By September 1, 2011, the Department of Health and Human  
35 Services (Department) shall study and submit a report to the Joint Legislative Oversight  
36 Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services on a  
37 revised process for collecting data to develop a waiting list of persons with intellectual or  
38 developmental disabilities who are waiting for specific services. The revised process shall  
39 ensure all of the following:

- 40 (1) A simple, nonduplicated count of children and adults with intellectual or  
41 developmental disabilities across the State who are waiting for federally and  
42 State-funded services.
- 43 (2) A research-based waiting list supported by data that accurately reflects the  
44 number of individuals waiting for categories of services currently available  
45 in this State.
- 46 (3) Data showing the number of individuals who are potentially eligible to  
47 receive services under the CAP-MR/DD Waiver.

48 **SECTION 27.2.** Beginning September 30, 2012, and annually thereafter, the  
49 Department shall submit a report to the Joint Legislative Oversight Committee on Mental  
50 Health, Developmental Disabilities, and Substance Abuse Services on the waiting list data

1 collected from each local management entity. The report shall include (i) an analysis of any  
2 service gaps revealed by the data, broken down by geographic location, age, and disability and  
3 (ii) plans to address these service gaps.

4  
5 **PART XXVIII. RESERVED**

6  
7 **PART XXIX. RESERVED**

8  
9 **PART XXX. DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY  
10 SHORT- AND INTERMEDIATE-TERM OPTIONS FOR IMPROVING ECONOMIES  
11 AND EFFICIENCIES IN THE PROVISION OF AID AND SERVICES UNDER THE  
12 STATE MEDICAID PLAN (Burr)**

13 **SECTION 30.1.** The Department of Health and Human Services shall evaluate and  
14 describe short-and intermediate-term options for improving economies and efficiencies in the  
15 provision of aid and services under the Medicaid plan with respect to services for Medicaid  
16 beneficiaries requiring long-term care services, including beneficiaries who are aged, blind, and  
17 disabled, and those dually eligible for Medicaid and Medicare. By January 2012, the  
18 Department shall present to the House and Senate Appropriations Committees models from  
19 other states that employ strategies not currently utilized in North Carolina, including fully  
20 capitated Medicaid programs. In describing the models, the Department shall discuss expected  
21 or documented savings, the level of community placements compared with institutional care,  
22 and other performance measures. States to be included in the analysis, at a minimum, are  
23 Arizona, New Mexico, Tennessee, and Texas.

24  
25 **PART XXXI. ADVISORY COMMITTEE ON CANCER COORDINATION AND  
26 CONTROL IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO  
27 STUDY ORAL CANCER THERAPY PARITY**

28 **SECTION 31.1.(a)** The Advisory Committee on Cancer Coordination and Control  
29 ("Committee") shall study the issue of oral cancer therapy parity and specifically review the  
30 issues specified in Section 18.2.

31 **SECTION 31.1.(b)** The Committee shall establish committees for the purpose of  
32 making special studies pursuant to its duties and shall appoint non-members to serve on each  
33 committee as resource persons. Resource persons shall be voting members of the committees  
34 and shall receive subsistence and travel expenses to the extent that funds are made available in  
35 accordance with G.S. 130-3.1, 138-5, and 138-6, as applicable. Committees shall meet with the  
36 frequency needed to accomplish the purposes of this Part.

37 **SECTION 31.2.** The Committee shall study the following issues related to oral  
38 cancer treatment parity:

- 39 (1) Review current insurance coverage practices in NC for oral cancer therapies  
40 and IV/injected therapies including:  
41 (a) Identify out of pocket costs to plan enrollees for oral cancer therapies  
42 and IV/injected cancer therapies.  
43 (b) Identify all medical systems involved and total costs for each in the  
44 delivery of oral and IV/injected cancer therapies.  
45 (c) Consider patient transportation costs and loss of earnings due to  
46 employment absences that shall result from IV/injected cancer  
47 therapies.  
48 (d) Examine the impact of out of pocket costs on the plan enrollee and  
49 any impact out of pocket costs shall have on the patient or physician's  
50 choice of therapy.



- 1 (e) Identify impact and consequences, if any, of categorizing oral cancer  
2 chemotherapy as a cancer treatment versus categorization as a  
3 prescriptive drug/medication.
- 4 (2) Examine and identify the limitations of existing North Carolina laws,  
5 regulations, programs, or services with regard to insurance coverage and  
6 awareness issues for oral cancer therapies.
- 7 (a) Review other states' initiatives to ensure insurance coverage for oral  
8 cancer therapies and IV/injected cancer therapies are equal and do  
9 not limit access.
- 10 (3) Determine the advantages and disadvantages of oral cancer therapies and  
11 IV/injected cancer therapies.
- 12 (4) Identify out of pocket cost disparities for oral versus IV/injected cancer  
13 therapies.
- 14 (5) Determine the impact out of pocket costs shall have on therapy decisions by  
15 enrollees and physicians.

16 **SECTION 31.3.** The Committee shall recommend solutions to ensure out of pocket  
17 costs to enrollees do not negatively impact access to desired therapies.

18 **SECTION 31.4.** The Committee shall submit a report on its findings to the Joint  
19 Legislative Health and Human Services Oversight Committee no later than Shall 1, 2012.

20  
21 **PART XXXII. WILDLIFE RESOURCES COMMISSION TO STUDY FOX AND**  
22 **COYOTE POPULATIONS (H.B. 755 – House Committee on Agriculture)**

23 **SECTION 32.1.** The Wildlife Resources Commission shall undertake a study of  
24 fox and coyote populations in the State and recommend management methods and controls  
25 designed to ensure statewide conservation of fox populations while managing adverse effects of  
26 coyote populations. In conducting the study, the Wildlife Resources Commission shall solicit  
27 input from interested stakeholders, including hunters, trappers, controlled hunting preserve  
28 operators, public health authorities, local governments, the North Carolina Department of  
29 Agriculture and Consumer Services, and private landowners. The Wildlife Resources  
30 Commission shall complete its study by April 1, 2012, and submit a report, including any  
31 proposed legislation, to the Speaker of the House of Representatives and the President Pro  
32 Tempore of the Senate, the Chairs of the House Committee on Agriculture, and the Chairs of  
33 the Senate Committee on Agriculture, Environment, and Natural Resources. The Wildlife  
34 Resources Commission shall conduct the study within existing funds.

35  
36 **PART XXXIII. DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF**  
37 **INSURANCE TO STUDY OPTIONS FOR AGRICULTURAL CONTRACT GROWERS**  
38 **TO PROTECT THEMSELVES AGAINST FINANCIAL LOSSES DUE TO WEATHER,**  
39 **NATURAL DISASTERS, OR OTHER ACTS OF GOD (H.B. 774 – Committee on Rules,**  
40 **Calendar, and Operations of the House)**

41 **SECTION 33.1.** The Commissioner of Insurance, with the assistance of the  
42 Commissioner of Agriculture, shall study the availability and need for insurance products or  
43 statutory contractual requirements that will enable agricultural contract growers to protect  
44 themselves from financial loss resulting from loss of the contracted animals due to weather,  
45 natural disaster, or other act of God. The Commission shall address, at a minimum, the  
46 following issues:

- 47 (1) The current availability of and need for insurance products to protect  
48 contract growers who have a financial investment in the animals they tend,  
49 even if they do not own the animals.

- 1 (2) Standard contract language and terms in common use in the agricultural  
2 contract growing industry, and whether statutory protections or requirements  
3 are necessary to protect agricultural contract growers in the State from  
4 ruinous financial loss due to weather, natural disasters, or other acts of God.

5 The Commissioners shall submit an interim report to the 2012 Regular Session of  
6 the 2011 General Assembly and shall submit a final report of their findings and  
7 recommendations, including any legislative proposals, to the 2013 General Assembly.

8  
9 **PART XXXIV. DEPARTMENT OF TRANSPORTATION TO STUDY THE NC  
10 HIGHWAY 54 CORRIDOR IN WAKE COUNTY FROM NC 540 TO NORTHWEST  
11 SHALLNARD ROAD (H.B. 589 – Murry, Dollar, Weiss)**

12 **SECTION 34.1.** The Department of Transportation, in conjunction with any  
13 affected Metropolitan Planning Organization or Rural Planning Organization, shall study NC  
14 Highway 54 in Wake County from NC 540 to Northwest Shallnard Road. The study shall  
15 include roadway widening, intersection improvements, potential road relocation outside  
16 railroad right-of-way, and potential railroad grade separations.

17 **SECTION 34.2.** The Department shall report the initial findings of the study  
18 required by this act to the Joint Legislative Transportation Oversight Committee no later than  
19 October 1, 2012. The Department shall continue to report annually on Shall 1 until such time  
20 as the study is complete and final recommendations can be made to the Joint Legislative  
21 Transportation Oversight Committee on the master plan and any legislative changes needed to  
22 implement the plan.

23  
24 **PART XXXV. DEPARTMENT OF TRANSPORTATION TO STUDY DEVELOPMENT  
25 OF PAVEMENT DESIGN AND CONSTRUCTION STANDARDS FOR SECONDARY  
26 ROADS, LOCAL ROADS, AND MUNICIPAL STREETS (Harrington, Frye?)**

27 **SECTION 35.1.** The Department of Transportation shall study the development of  
28 pavement design and construction standards specific to secondary roads, local roads, and  
29 municipal streets. These standards shall be applicable to both rigid and flexible pavement types.

30 **SECTION 35.2.** The Department shall report its findings and recommendations to  
31 the Joint Legislative Transportation Oversight Committee no later than March 31, 2012.

32  
33 **PART XXXVI. DEPARTMENT OF CORRECTION TO STUDY CONTRACTING FOR  
34 MAINTENANCE SERVICES AT PRISON FACILITIES (H.B. 335 – Guice, Horn, Burr,  
35 Daughtry)**

36 **SECTION 36.1.** The Department of Correction shall study the potential benefits  
37 and costs of contracting for maintenance services at prison facilities and report its findings to  
38 the 2013 Session of the General Assembly. The Department shall not expand private  
39 maintenance contracts to additional prison facilities unless authorized by the 2013 Session of  
40 the General Assembly.

41  
42 **PART XXXVII. ADMINISTRATIVE OFFICE OF THE COURTS TO STUDY ISSUES  
43 RELATED TO THE SALE OF COURT RECORDS AND TO MAKE  
44 RECOMMENDATIONS ON DEFINING THE TERM "CRIMINAL RECORD" BY  
45 STATE LAW (H.B. 272 – Bryant, Guice, Frye, and Pierce; S.B. 223 – Hartsell, Dannelly,  
46 Jones)**

47 **SECTION 37.1.** The Administrative Office of the Courts shall (i) study issues  
48 related to the sale of court records and how best to ensure the accuracy of the information  
49 available to the customer and to protect a citizen's right to have his or her record expunged and  
50 (ii) review the State's statutes relating to a person's "criminal record" and make

1 recommendations on defining the term "criminal record" by statute. The Administrative Office  
2 of the Courts shall report its findings and recommendations to the General Assembly no later  
3 than upon the convening of the 2012 Regular Session of the 2011 General Assembly.  
4

5 **PART XXXVIII. ADMINISTRATIVE OFFICE OF THE COURTS TO STUDY**  
6 **METHODS OF APPOINTING MAGISTRATES (H.B. 517 – Stevens, Sager)**

7 **SECTION 38.1.** The Administrative Office of the Courts, in consultation with the  
8 Conference of Superior Court Judges, the Conference of District Court Judges, the Conference  
9 of Clerks of Superior Court, and the North Carolina Magistrates Association, shall study the  
10 issue of whether the State constitutional provision that the senior resident superior court judge  
11 shall appoint magistrates from nominations by the Clerk of Superior Court should continue as  
12 the method for appointment of magistrates, or whether an amendment to the State Constitution  
13 to provide for a different method would be both practical in light of the current responsibilities  
14 of officers of the court and lead to better efficiencies in the administration of justice. The  
15 Administrative Office of the Courts shall submit a report of its findings and recommendations,  
16 including any legislative recommendations, to the 2012 Regular Session of the General  
17 Assembly upon its convening.  
18

19 **PART XXXIX. SENTENCING AND POLICY ADVISORY COMMISSION TO STUDY**  
20 **THE ISSUES SURROUNDING CHILDREN OF INCARCERATED PARENTS (H.B.**  
21 **699 – Bordsen)**

22 **SECTION 39.1.** The North Carolina Sentencing and Policy Advisory Commission  
23 shall study the issues relating to children of incarcerated parents. In conducting its study, the  
24 Commission shall examine the immediate and long-term effects of parental incarceration on the  
25 care, education, health, and life outcomes of children, look at what is currently being done in  
26 North Carolina to assist these children and their parents, determine if other measures are  
27 needed, and review any other matters as the Committee deems relevant to this study.

28 **SECTION 39.2.** The Commission shall report to the General Assembly no later  
29 than 30 days before that session reconvenes in 2012.  
30

31 **PART XL. GENERAL STATUTES COMMISSION TO STUDY AND RECOMMEND**  
32 **CHANGES TO THE GENERAL STATUTES TO PROVIDE FOR THE ORDERLY**  
33 **AND EXPEDITIOUS REMOVAL BY A LANDLORD OF THE PERSONAL**  
34 **PROPERTY OF A DECEASED PERSON (H.B. 493 – Howard, Blust, Randleman)**

35 **SECTION 40.1.** The General Statutes Commission shall study and recommend to  
36 the 2012 Regular Session of the 2011 General Assembly changes to the General Statutes to  
37 provide for the orderly and expeditious removal by a landlord of the personal property of a  
38 deceased tenant where the heirs are not readily identifiable or available to take possession of  
39 that personal property.  
40

41 **PART XLI. BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH**  
42 **CAROLINA TO STUDY THE ENROLLMENT CHANGE FUNDING FORMULA**  
43 **CURRENTLY USED BY THE UNIVERSITY SYSTEM TO PREDICT ITS**  
44 **ENROLLMENT GROWTH AND ESTIMATE ITS FUNDING NEEDS (H.B. 252 –**  
45 **Crawford; S.B. 255 – Hartsell)**

46 **SECTION 41.1.(a)** The Board of Governors of The University of North Carolina,  
47 with the assistance of General Administration, shall study and thoroughly examine the  
48 enrollment change funding formula currently used by The University System to predict its  
49 enrollment growth and estimate its funding needs. The purpose of the study is to consider and

1 evaluate possible modifications to the formula that would simplify and standardize the  
2 enrollment projection process and yield more accurate funding requests.

3 As part of its study, the Board of Governors shall do all of the following:

- 4 (1) Consider the recommendations set out in the final report to the Joint  
5 Legislative Program Evaluation Oversight Committee (Report Number  
6 2010-05), dated November 17, 2010, regarding modification of The  
7 University of North Carolina enrollment change funding formula.
- 8 (2) Consider simplifying and standardizing the enrollment projection process for  
9 the enrollment change funding formula.
- 10 (3) Reexamine and justify funding factors for libraries and general institutional  
11 support.
- 12 (4) Consider whether to adopt the weighted cost per student credit hour (SCH)  
13 as recommended by the Program Evaluation Division of the General  
14 Assembly or develop an approach that achieves the aim of retaining the  
15 formula granularity but reduces projection error.
- 16 (5) Consider what modifications shall be made to the formula to improve the  
17 ability of each campus to analyze the accuracy of its enrollment projections,  
18 correct errors in those projections at an earlier date, and adjust funding  
19 requests before the requests are included in the campus's base operating  
20 budget, which is used as a component by the Board of Governors in  
21 developing and preparing the budget request for The University of North  
22 Carolina that is submitted to the Governor and the General Assembly  
23 pursuant to G.S. 116-11(9).

24 **SECTION 41.1.(b)** Based on its study and evaluations conducted pursuant to this  
25 Part, the Board of Governors shall develop a revised enrollment change funding model,  
26 including enrollment projection process, revised cost factors, and resulting weighted cost per  
27 student credit hour (SCH) or similar approach, and present that revised enrollment change  
28 funding model by June 30, 2011, to the General Assembly for its consideration.  
29

30 **PART XLII. DEPARTMENT OF JUSTICE, CONSUMER PROTECTION DIVISION**  
31 **TO COORDINATE A TASK FORCE ON FRAUD AGAINST OLDER ADULTS (H.B.**  
32 **110 – Farmer-Butterfield, Weiss, Pierce, Hurley; S.B. 449 – Bingham)**

33 **SECTION 42.1.(a)** The Consumer Protection Division, Department of Justice,  
34 shall coordinate a Task Force on Fraud Against Older Adults. The Task Force shall include  
35 representatives from the Consumer Protection Division, Department of Justice; Division of  
36 Aging and Adult Services, Department of Health and Human Services; North Carolina Senior  
37 Consumer Fraud Task Force; North Carolina Association of County Directors of Social  
38 Services; the Banking Commission; and other associations as approved by the Consumer  
39 Protection Division.

40 **SECTION 42.1.(b)** The Task Force shall include, but should not be limited to,  
41 examination of the following issues:

- 42 (1) Identifying, clarifying, and strengthening laws to provide older adults a  
43 broader system of protection against abuse and fraud.
- 44 (2) Establishing a statewide system to enable reporting on incidents of fraud and  
45 mistreatment of older adults.
- 46 (3) Identifying opportunities for partnership among the Banking Commission,  
47 the financial management industry, and law enforcement agencies to prevent  
48 fraud against older adults.
- 49 (4) Granting the Attorney General authority to initiate prosecutions for fraud  
50 against older adults.

1           **SECTION 42.1.(c)** The Task Force shall make an interim report to the North  
2 Carolina Study Commission on Aging on or before November 1, 2011, and a final report  
3 including findings, recommendations, and draft legislation on or before October 1, 2012.

4  
5           **PART XLIII. DIVISION OF MOTOR VEHICLES TO STUDY THE DESIRABILITY**  
6 **OF REQUIRING DRIVERS EDUCATION FOR ALL DRIVERS (H.B. 665 – Boles)**

7           **SECTION 43.1.** The Division of Motor Vehicles, in collaboration with the North  
8 Carolina State Highway Patrol and the Governor's Highway Safety Program, shall study the  
9 desirability of requiring all drivers to complete an approved drivers education course before  
10 being issued a North Carolina drivers license. The study shall also consider how the  
11 requirement would apply to a person moving into this State with a valid drivers license issued  
12 by another state. The Division shall submit a report of its findings and recommendations to the  
13 General Assembly no later than March 1, 2012.

14  
15           **PART XLIV. DEPARTMENT OF COMMERCE, IN CONJUNCTION WITH NORTH**  
16 **CAROLINA UTILITIES COMMISSION AND NORTH CAROLINA SOLAR CENTER**  
17 **TO STUDY THE PROMOTION OF OFFSHORE WIND ENERGY GENERATION**  
18 **OFF THE COAST OF NORTH CAROLINA (McCormick)**

19           **SECTION 44.1.** The Department of Commerce, in conjunction with the North  
20 Carolina Utilities Commission and the North Carolina Solar Center, shall jointly study the  
21 desirability and feasibility of promoting offshore wind energy generation off the coast of North  
22 Carolina in order to encourage and foster economic and job development in the State. The  
23 Department of Commerce shall act as the lead agency for this study. The study shall address  
24 the potential for job creation and business recruitment related to equipment manufacturing,  
25 construction, and the operation of offshore wind generation projects in addition to any other  
26 matters that are deemed appropriate in conducting this study. The study shall also consider the  
27 competitive nature of the potential for offshore wind energy on the eastern coast of the United  
28 States.

29           **SECTION 44.2.** The Department of Commerce, the Utilities Commission, and the  
30 North Carolina Solar Center shall jointly submit a final report that includes findings and any  
31 recommendations to the Joint Legislative Utility Review Committee and the Environmental  
32 Resources Commission on or before December 1, 2011.

33  
34           **PART XLV. JOINT LEGISLATIVE STUDY COMMISSION ON PROPERTY**  
35 **INSURANCE RATE MAKING (S.B. 716 – Brown)**

36           **SECTION 45.1.** There is created the Joint Legislative Study Commission on  
37 Property Insurance Rate Making. The purpose of the Commission is to study the adequacy of  
38 citizen input in property insurance rate making and the manner in which property insurance  
39 rates are proposed, reviewed, approved, and appealed.

40           **SECTION 45.2.** The Commission shall consist of 14 members appointed as  
41 follows:

- 42           (1) The Commissioner of Insurance or his or her designee, serving ex officio.
- 43           (2) A representative of the North Carolina Rate Bureau.
- 44           (3) A representative of the North Carolina Insurance Underwriting Association.
- 45           (4) Three members appointed by the Governor, to include one member of the  
46 general public who resides in the coastal area or beach areas of the State. For  
47 purposes of this subdivision, "coastal area" and "beach area" shall have the  
48 definitions specified by G.S. 58-45-5.

1 (5) Four members appointed by the Speaker of the House of Representatives, to  
2 include three members of the House of Representatives and one member  
3 who is a qualified independent casualty actuary.

4 (6) Four members appointed by the President Pro Tempore of the Senate, to  
5 include three members of the Senate and one person who represents the  
6 interests of insurance agents.

7 Vacancies on the Commission shall be filled by the appointing authority. A quorum  
8 of the Commission shall consist of eight members.

9 The Speaker of the House of Representatives and the President Pro Tempore of the  
10 Senate shall each appoint a cochair for the Commission. The Commission may meet at any  
11 time upon the joint call of the cochairs.

12 The Commission, while in the discharge of its official duties, may exercise all the  
13 powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the  
14 power to request all officers, agents, agencies, and departments of the State to provide any  
15 information, data, or documents within their possession, ascertainable from the records, or  
16 otherwise available to them, and the power to subpoena witnesses.

17 The Commission may contract for professional, clerical, or consultant services as  
18 provided by G.S. 120-32.02.

19 **SECTION 45.3.** Purpose. – The Commission shall study the following:

20 (1) The feasibility and advisability of replacing the North Carolina Rate Bureau  
21 with a market-based rate-setting system or with a regulatory commission  
22 similar to the North Carolina Utilities Commission.

23 (2) The adequacy under current law of legislative oversight of the Rate Bureau,  
24 the North Carolina Joint Underwriting Association, and the North Carolina  
25 Insurance Underwriting Association,

26 (3) The adequacy under current law of Commissioner of Insurance duties  
27 pertaining to protection of policyholders and the public against the adverse  
28 effects of excessive, inadequate, or unfairly discriminatory rates.

29 (4) Whether North Carolina citizens and policyholders should be given a voice  
30 in rate appeals under G.S. 58-2-80 through creation of a board or office  
31 independent of the Commissioner with standing to advocate on behalf of  
32 citizens and policyholders.

33 (5) The adequacy of the review process afforded by G.S. 58-36-1(2) to persons  
34 affected by a rate or loss costs made by the Rate Bureau.

35 (6) Whether information provided to the public by the Commissioner and the  
36 Rate Bureau is adequate to allow reasoned review by interested citizens of  
37 the assumptions, modeling, and processes used in setting rates.

38 (7) Study any other matters pertaining to statewide property insurance rates that  
39 the Commission deems relevant.

40 **SECTION 45.4.** Staff. – Upon approval of the Legislative Services Commission,  
41 the Legislative Services Officer shall assign professional and clerical staff to assist in the work  
42 of the Commission. Clerical staff shall be furnished to the Commission through the offices of  
43 the House of Representatives and Senate Supervisors of Clerks.

44 **SECTION 45.5.** Meeting location. – The Commission may meet in the Legislative  
45 Building or Legislative Office Building upon the approval of the Legislative Services  
46 Commission.

47 **SECTION 45.6.** Expenses of members. – Members of the Commission shall  
48 receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1.

49 **SECTION 45.7.** Report. – The Commission shall submit an interim report to the  
50 2012 Regular Session of the 2011 General Assembly prior to its reconvening and shall make a

1 final report to the 2013 Regular Session of the General Assembly prior to its convening. The  
2 report shall contain the Commission's findings, recommendations, legislative proposals, and  
3 cost analyses. The Commission shall terminate upon filing its final report or upon the  
4 convening of the 2013 General Assembly, whichever is earlier.

5  
6 **PART XLVI. SPECIAL COMMISSION TO STUDY RETIREMENT AND HEALTH**  
7 **BENEFITS FOR TEACHERS AND STATE EMPLOYEES (S.B. 687 – Apodaca,**  
8 **Brunstetter)**

9 **SECTION 46.1.** There is established the Special Commission to Study Retirement  
10 and Health Benefits for Teachers and State Employees.

11 **SECTION 46.2.** The Commission shall be composed of 14 members as follows:

- 12 (1) The State Treasurer or the State Treasurer's designee.
- 13 (2) The Executive Administrator of the State Health Plan for Teachers and State  
14 Employees.
- 15 (3) Four members appointed by the President Pro Tempore of the Senate.
- 16 (4) Four members appointed by the Speaker of the House of Representatives.
- 17 (5) Four members appointed by the Governor.

18 Vacancies on the Commission shall be filled by the appointing authority. The  
19 Commission shall choose from among its membership a chair and two vice-chairs. A quorum  
20 of the Commission shall be nine members.

21 The Commission, while in the discharge of its official duties, may exercise all  
22 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the  
23 power to request all officers, agents, agencies, and departments of the State to provide any  
24 information, data, or documents within their possession, ascertainable from their records, or  
25 otherwise available to them, and the power to subpoena witnesses.

26 The Commission may meet at any time upon call of the chairs. The Commission  
27 may meet in the Legislative Building or the Legislative Office Building. The Commission may  
28 contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

29 The Legislative Services Commission, through the Legislative Services Officer,  
30 shall assign professional staff to assist the Commission in its work. The House of  
31 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the  
32 Commission, and the expenses relating to the clerical employees shall be borne by the  
33 Commission. Members of the Commission shall receive subsistence and travel expenses at the  
34 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

35 **SECTION 46.3.** The initial meeting of the Commission shall be called by the State  
36 Treasurer or the State Treasurer's designee.

37 **SECTION 46.4.** The Commission shall study retirement and health benefits for  
38 teachers and State employees. As a part of its study, the Commission may examine issues  
39 related to:

- 40 (1) Whether the changing demographics among State employees require  
41 changes to the current defined benefit plan and the health plan.
- 42 (2) Whether there is a need to establish a normal retirement age when retirement  
43 and health benefits are to begin.
- 44 (3) Whether the retirement plan should have a defined contribution component.
- 45 (4) Whether the current benefits plan serves the need to recruit and retain the  
46 best teachers and State employees.
- 47 (5) Any other issues the Commission deems relevant to improvement of the  
48 retirement systems and the State Health Plan.
- 49 (6) The relationship between the State Health Plan, the Teachers' and State  
50 Employees' Retirement System, and the Disability Income Plan.

1           **SECTION 46.5.** The Commission shall make an interim report to the 2011 Regular  
2 Session of the General Assembly prior to its reconvening in 2012 and shall make a final report  
3 to the 2013 Regular Session of the General Assembly prior to its convening. The report shall  
4 include any proposed legislation. The Commission shall terminate upon filing its final report or  
5 upon the convening of the 2013 General Assembly, whichever is earlier.  
6

7 **PART XLVII. MUNICIPAL POWER AGENCY RELIEF LEGISLATIVE STUDY**  
8 **COMMITTEE (S.B. 587 – Newton)**

9           **SECTION 47.1.** Committee created. – There is created the Municipal Power  
10 Agency Relief Legislative Study Committee ("Committee"). The Committee shall consist of 6  
11 members as follows:

12           (1) Three members of the Senate, appointed by the President Pro Tempore of  
13 the Senate.

14           (2) Three members of the House of Representatives, appointed by the Speaker  
15 of the House of Representatives.

16           **SECTION 47.2.** The Committee shall:

17           (1) Study potential options to provide relief to customers of the joint municipal  
18 power agencies from high electric rates, including:

19           a. The feasibility of refinancing or restructuring the debt of the power  
20 agencies.

21           b. The feasibility of selling assets of the municipalities or the power  
22 agencies to lower electric rates or the total amount of debt.

23           (2) Study any other matters that the Committee deems relevant.

24           (3) Make a final report to the 2012 Regular Session of the 2011 General  
25 Assembly that includes findings, recommendations, and legislative proposals  
26 relating to its study.

27           **SECTION 47.3.** The Commission shall terminate upon filing its final report or  
28 upon the convening of the 2013 General Assembly, whichever is earlier.

29           **SECTION 47.4.** Vacancies on the Committee shall be filled by the appointing  
30 authority. The Committee shall choose from among its membership a chair and two vice-chairs.  
31 A quorum of the Committee shall be nine members.

32           The Committee, while in the discharge of its official duties, may exercise all powers  
33 provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the power  
34 to request all officers, agents, agencies, and departments of the State to provide any  
35 information, data, or documents within their possession, ascertainable from their records, or  
36 otherwise available to them, and the power to subpoena witnesses.

37           The Committee may meet at any time upon call of the chairs. The Committee may  
38 meet in the Legislative Building or the Legislative Office Building. The Committee may  
39 contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

40           The Legislative Services Commission, through the Legislative Services Officer,  
41 shall assign professional staff to assist the Committee in its work. The House of  
42 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the  
43 Committee, and the expenses relating to the clerical employees shall be borne by the  
44 Committee. Members of the Committee shall receive subsistence and travel expenses at the  
45 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.  
46

47 **PART XLVIII. MARINE FISHERIES LEGISLATIVE STUDY COMMITTEE (H.B. 353**  
48 **– McCormick, Glazier, Ingle, Samuelson)**



1           **SECTION 48.1.** Committee Created – There is created the Marine Fisheries  
2 Legislative Study Committee ("Committee"). The Committee shall consist of 8 members as  
3 follows:

- 4           (1) Four members of the Senate, appointed by the President Pro Tempore of the  
5 Senate.
- 6           (2) Four members of the House of Representatives, appointed by the Speaker of  
7 the House of Representatives.

8           **SECTION 48.2.** The Committee may study the following:

- 9           (1) The potential impact to both the State's fisheries resources and the State's  
10 economy related to the designation of Red Drum (*Sciaenops ocellatus*),  
11 Spotted Sea Trout (*Cynoscion nebulosus*) and Striped Bass (*Morone*  
12 *saxatilis*) as coastal game fish.
- 13           (2) Changes to the appointment process and qualification for membership on the  
14 North Carolina Marine Fisheries Commission.
- 15           (3) Creation of a hook and line commercial fishery.
- 16           (4) Elimination of the trawl boat fishery in North Carolina.
- 17           (5) Entering into reciprocal agreements with other jurisdictions with regard to  
18 the conservation of marine and estuarine resources; and regulating  
19 placement of nets and other sports or commercial fishing apparatus in  
20 coastal fishing waters with regard to navigational and recreational safety as  
21 well as from a conservation standpoint.
- 22           (6) Entering into agreements regarding the delegation of law enforcement  
23 powers from the National Marine Fisheries Service over matters within the  
24 jurisdiction of the Service.
- 25           (7) Potential modification of the Fisheries Reform Act of 1997.
- 26           (8) Whether Marine Fisheries should be a division of the Coastal Resources  
27 Commission or the Wildlife Resources Commission.
- 28           (9) Other findings that promote the allocation of the State's resources to the  
29 optimum use.
- 30           (10) Any other matters the Committee deems relevant.

31           **SECTION 48.3.** The Committee may make a final report to the 2012 Regular  
32 Session of the 2011 General Assembly that includes findings, recommendations, and legislative  
33 proposals relating to its study. The Committee shall terminate upon filing its final report or  
34 upon the convening of the 2013 Session of the General Assembly, whichever is earlier.

35           **SECTION 48.4.** Vacancies on the Committee shall be filled by the appointing  
36 authority. The Committee shall choose from among its membership a chair and a vice chair. A  
37 quorum of the Committee shall be five members.

38           **SECTION 48.5.** The Committee, while in the discharge of its official duties, may  
39 exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4,  
40 including the power to request all officers, agents, agencies, and departments of the State to  
41 provide any information, data, or documents within their possession, ascertainable from their  
42 records, or otherwise available to them, and the power to subpoena witnesses.

43           The Committee may meet at any time upon call of the chairs. The Committee may  
44 meet in the Legislative Building or the Legislative Office Building. The Committee may  
45 contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

46           The Legislative Services Commission, through the Legislative Services Officer,  
47 shall assign professional staff to assist the Committee in its work. The House of  
48 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the  
49 Committee, and the expenses relating to the clerical employees shall be borne by the

1 Committee. Members of the Committee shall receive subsistence and travel expenses at the  
2 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.  
3

4 **PART XLIX. REESTABLISH LEGISLATIVE STUDY COMMISSION ON**  
5 **PUBLIC-PRIVATE PARTNERSHIPS (S.B. 278 – Jenkins)**

6 **SECTION 49.1.** There is established the Legislative Study Commission on  
7 Public-Private Partnerships.

8 **SECTION 49.2.** The Commission shall be composed of 16 members, as follows:

- 9 (1) Five members of the Senate, appointed by the President Pro Tempore of the  
10 Senate.
- 11 (2) Five members of the House of Representatives, appointed by the Speaker of  
12 the House of Representatives.
- 13 (3) Three public members, appointed by the Speaker of the House of  
14 Representatives.
- 15 (4) Three public members, appointed by the President Pro Tempore of the  
16 Senate.

17 The Commission shall include, and consult with, the Secretary of Transportation,  
18 the North Carolina Turnpike Authority, the State Treasurer, the Local Government  
19 Commission, the State Construction Office, the North Carolina Association of County  
20 Commissioners, the North Carolina League of Municipalities, and the North Carolina School  
21 Boards Association in the course of its deliberations.

22 Public members shall be residents of the State. Vacancies on the Commission shall  
23 be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker  
24 of the House of Representatives each shall designate a cochair, who shall be a member of the  
25 General Assembly. A quorum of the Commission shall be 10 members.

26 The Commission, while in the discharge of its official duties, may exercise all  
27 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The  
28 Commission may meet at any time upon call of the chairs. The Commission may meet in the  
29 Legislative Building or the Legislative Office Building. The Commission may contract for  
30 professional, clerical, or consultant services as provided by G.S. 120-32.02.

31 The Legislative Services Commission, through the Legislative Services Officer,  
32 shall assign professional staff to assist the Commission in its work. The House of  
33 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the  
34 Commission, and the expenses relating to the clerical employees shall be borne by the  
35 Commission. Members of the Commission shall receive subsistence and travel expenses at the  
36 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

37 **SECTION 49.3.** The Commission shall study issues related to Public-Private  
38 Partnerships (PPPs), including examination of the appropriate authority for State, regional, and  
39 local government units to engage in PPPs for public capital projects through a regulatory  
40 framework. As part of its study, the Commission may study infrastructure banks and any other  
41 relevant issues it deems appropriate.

42 **SECTION 49.4.** The Commission may report its recommendations and legislative  
43 proposals to the 2012 Regular Session of the 2011 General Assembly on or before its  
44 convening. The Commission shall terminate upon filing its final report or upon the convening  
45 of the 2013 General Assembly, whichever is earlier.  
46

47 **PART L. EXPAND DUTIES OF REVENUE LAWS STUDY COMMITTEE TO**  
48 **INCLUDE ANALYZING AND ASSESSING STATE ECONOMIC DEVELOPMENT**  
49 **PROGRAMS (S.B. 489 – Rucho)**

50 **SECTION 50.1.** G.S. 120-70.106 reads as rewritten:

1 **"§ 120-70.106. Purpose and powers of Committee.**

2 (a) The Revenue Laws Study Committee may:

- 3 (1) Study the revenue laws of North Carolina and the administration of those  
4 laws.
- 5 (2) Review the State's revenue laws to determine which laws need clarification,  
6 technical amendment, repeal, or other change to make the laws concise,  
7 intelligible, easy to administer, and equitable.
- 8 (3) Call upon the Department of Revenue to cooperate with it in the study of the  
9 revenue laws.
- 10 (4) Analyze the economic development programs supported by the State and the  
11 effectiveness of those programs
- 12 (5) Assess the performance of economic development programs, according to  
13 criteria established by the Committee, and the entities that implement those  
14 programs.
- 15 (4)(6) Report to the General Assembly at the beginning of each regular session  
16 concerning its determinations of needed changes in the State's revenue  
17 laws-laws and economic development programs.

18 These powers, which are enumerated by way of illustration, shall be liberally construed to  
19 provide for the maximum review by the Committee of all revenue ~~law-law~~ and economic  
20 development matters in this State.

21 (b) The Committee may make interim reports to the General Assembly on matters for  
22 which it may report to a regular session of the General Assembly. A report to the General  
23 Assembly may contain any legislation needed to implement a recommendation of the  
24 Committee. When a recommendation of the Committee, if enacted, would result in an increase  
25 or decrease in State revenues, the report of the Committee must include an estimate of the  
26 amount of the increase or decrease.

27 ~~(e) The Revenue Laws Study Committee must review the effect Article 42 of Chapter~~  
28 ~~66 of the General Statutes, as enacted by S.L. 2006-151, has on the issues listed in this section~~  
29 ~~to determine if any changes to the law are needed:~~

- 30 ~~(1) Competition in video programming services.~~
- 31 ~~(2) The number of cable service subscribers, the price of cable service by~~  
32 ~~service tier, and the technology used to deliver the service.~~
- 33 ~~(3) The deployment of broadband in the State.~~

34 ~~The Committee must review the impact of this Article on these issues every two years and~~  
35 ~~report its findings to the North Carolina General Assembly. The Committee must make its first~~  
36 ~~report to the 2008 Session of the North Carolina General Assembly."~~

37 **SECTION 50.2.** G.S. 120-70.107 reads as rewritten:

38 **'§ 120-70.107. Organization of Committee.**

39 (a) The President Pro Tempore of the Senate and the Speaker of the House of  
40 Representatives shall each designate a cochair of the Revenue Laws Study Committee. The  
41 Committee shall meet upon the joint call of the cochairs.

42 (b) A quorum of the Committee is ~~nine~~ 11 members. No action may be taken except by  
43 a majority vote at a meeting at which a quorum is present. While in the discharge of its official  
44 duties, the Committee has the powers of a joint committee under G.S. 120-19 and  
45 G.S. 120-19.1 through G.S. 120-19.4.

46 (c) The Committee shall be funded by the Legislative Services Commission from  
47 appropriations made to the General Assembly for that purpose. Members of the Committee  
48 receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5. The  
49 Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02.  
50 Upon approval of the Legislative Services Commission, the Legislative Services Officer shall

1 assign professional staff to assist the Committee in its work. Upon the direction of the  
2 Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of  
3 Representatives shall assign clerical staff to the Committee. The expenses for clerical  
4 employees shall be borne by the Committee.".

5  
6 **PART LI. JOINT LEGISLATIVE EFFICIENCY AND COST-SAVINGS IN STATE  
7 GOVERNMENT STUDY COMMISSION (H.B. 627 – Blackwell, Crawford)**

8 **SECTION 51.1.** There is established the Joint Legislative Efficiency and  
9 Cost-Savings in State Government Study Commission.

10 **SECTION 51.2.** The Commission shall be composed of 10 members appointed as  
11 follows:

- 12 (1) Five Senators appointed by the President Pro Tempore of the Senate.
- 13 (2) Five Representatives appointed by the Speaker of the House of  
14 Representatives.

15 Vacancies on the Commission shall be filled by the appointing authority. The  
16 President Pro Tempore of the Senate and the Speaker of the House of Representatives shall  
17 each designate a cochair. A quorum of the Commission shall be a majority of its members.

18 The Commission may meet at any time upon call of the chairs. The Commission  
19 may meet in the Legislative Building or the Legislative Office Building. The Commission may  
20 contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

21 The Commission, while in the discharge of its official duties, may exercise all  
22 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the  
23 power to request all officers, agents, agencies, and departments of the State to provide any  
24 information, data, or documents within their possession, ascertainable from their records, or  
25 otherwise available to them, and the power to subpoena witnesses and documents.

26 The Director of the Fiscal Research Division shall provide staff support to assist the  
27 Commission in its work. The Director of the Program Evaluation Division shall advise the  
28 Commission. The Legislative Services Commission, through the Legislative Services Officer,  
29 shall assign other professional staff to assist the Commission in its work. The House of  
30 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the  
31 Commission, and the expenses relating to the clerical employees shall be borne by the  
32 Commission. Members of the Commission shall receive subsistence and travel expenses at the  
33 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

34 **SECTION 51.3.** The Commission shall use a zero-based budgeting review process  
35 to study whether there are obsolete programs, cost-reduction opportunities in State government,  
36 and any cases where existing funds can be redirected to meet new and changing demands for  
37 public services. At its first meeting, the Commission shall determine which agency or agencies  
38 to review. The Commission may require any agency under review to submit written  
39 information in a form specified by the Commission by a specified time. The Commission may  
40 accept or reject any or part of any information submitted and require revision or resubmission.  
41 The Commission may require information as follows:

- 42 (1) Identification of decision units. – The agency shall identify decision units  
43 representing any group of services with a common set of objectives or  
44 comprising an agency program or administrative support unit.
- 45 (2) Impact of discontinuing each decision unit. – The agency shall provide a  
46 quantitative estimate of any adverse impacts that could reasonably be  
47 expected should the State discontinue a decision unit, together with a full  
48 description of the methods by which the adverse impact is estimated.
- 49 (3) Division of decision units into decision packages. – The agency shall divide  
50 each decision unit into the following four discrete decision packages:

- 1 a. Minimum. – A quantitative estimate of any adverse impacts that  
2 could reasonably be expected and an itemized account of  
3 expenditures that would be required to maintain the activity at the  
4 minimum level of service required by any statutory authorization and  
5 below which would effectively eliminate all services, together with a  
6 concise statement of the resulting quantity and quality of services.  
7 This service level shall be below the level described by  
8 sub-subdivision b. of this subdivision.
- 9 b. Reduced. – A quantitative estimate of any adverse impacts that could  
10 reasonably be expected and an itemized account of expenditures that  
11 would be required if funding were reduced by the percentage or  
12 amount specified by the Commission below the current level as  
13 defined by sub-subdivision c. of this subdivision and a concise  
14 statement of the resulting quantity and quality of services.
- 15 c. Current. – A quantitative description of benefits from and an  
16 itemized account of expenditures that would be required to maintain  
17 the activity at the current level of service, together with a full  
18 description of the methods by which the current level is determined  
19 and a concise statement of the resulting quantity and quality of  
20 services.
- 21 d. Enhanced. – A quantitative estimate of benefits that could reasonably  
22 be expected and an itemized account of expenditures that would be  
23 required to increase the current level of service, together with a full  
24 description of the methods by which the enhanced level is estimated  
25 and a concise statement of the resulting quantity and quality of  
26 services.
- 27 (4) Service delivery alternatives. – For each decision package, a description of  
28 alternative methods for delivering services which may include, but not be  
29 limited to, shedding one or more services and relying upon the free market  
30 for delivery, delegation to another level of government, using Requests for  
31 Information or competitive selection to outsource to private for-profit or  
32 nonprofit organizations, in whole or in part, including franchising, assisting  
33 or providing incubator arrangements for current State employees to form  
34 non-State organizations to compete for outsourcing opportunities, or through  
35 methods used by other states or nations.
- 36 (5) Ranking. – As instructed by the Commission, a ranking of all decision  
37 packages compared with each other without ties.

38 **SECTION 51.4.** The Commission shall make an interim report to the 2012 Regular  
39 Session of the 2011 General Assembly and shall make a final report to the 2013 General  
40 Assembly. The report shall include any proposed legislation. The Commission shall terminate  
41 upon filing its final report or upon the convening of the 2013 General Assembly, whichever is  
42 earlier.

43  
44 **PART LII. LEGISLATIVE STUDY COMMISSION ON ENERGY INDEPENDENCE**  
45 **AND ALTERNATIVE FUEL FOR VEHICLES (H.B. 704 – Hager, Steen, Stone, Collins;**  
46 **H. B. 585 – Pridgen, Hastings, Jones)**

47 **SECTION 52.1.** There is established the Legislative Study Commission on Energy  
48 Independence and Alternative Fuel for Vehicles to study the State's future energy needs. The  
49 study shall focus on the possible use of compressed natural gas, liquid propane, and biofuels as  
50 fuel sources for vehicles and shall study the development of natural gas, oil, wind, solar, and

1 other energy sources capable of energy production for the purposes of North Carolina  
2 becoming more self-reliant as to its energy supplies; becoming more independent of foreign  
3 energy markets, which are volatile and steeply fluctuating due to current energy and political  
4 crises; and avoiding the potential of being completely cut off from foreign fuel due to political  
5 unrest and instability in the Middle East.

6 **SECTION 52.2.** The Commission shall be composed of eight members, as follows:

- 7 (1) Two members of the Senate, appointed by the President Pro Tempore of the  
8 Senate.
- 9 (2) Two members of the House of Representatives, appointed by the Speaker of  
10 the House of Representatives.
- 11 (3) Two public members appointed by the Speaker of the House of  
12 Representatives, one of which shall be an individual with experience in the  
13 alternative fuel industry and one of which shall be an individual employed in  
14 academia with expertise in alternative fuels for vehicles.
- 15 (4) Two public members appointed by the President Pro Tempore of the Senate,  
16 one of which shall be an individual with experience in the alternative fuel  
17 industry and one of which shall be an individual employed in academia with  
18 expertise in alternative fuels for vehicles.

19 Public members shall be residents of the State. Vacancies on the Commission shall  
20 be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker  
21 of the House of Representatives each shall designate a cochair who shall be a member of the  
22 General Assembly. A quorum of the Commission shall be 10 members.

23 The Commission, while in the discharge of its official duties, may exercise all  
24 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The  
25 Commission may meet at any time upon call of the chairs. The Commission may meet in the  
26 Legislative Building or the Legislative Office Building. The Commission may contract for  
27 professional, clerical, or consultant services as provided by G.S. 120-32.02.

28 The Legislative Services Commission, through the Legislative Services Officer,  
29 shall assign professional staff to assist the Commission in its work. The House of  
30 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the  
31 Commission, and the expenses relating to the clerical employees shall be borne by the  
32 Commission. Members of the Commission shall receive subsistence and travel expenses at the  
33 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

34 **SECTION 52.3.** As part of its study, the Commission may examine the following:

- 35 (1) Infrastructure changes needed to facilitate the use of alternative fuel  
36 vehicles, including integration with gas distribution lines.
- 37 (2) Incentives for alternative fuels for vehicles, including tax incentives.
- 38 (3) Feasibility of using alternative fuel vehicles for the State fleet.
- 39 (4) Impact of alternative fuel vehicles on fuel supply.
- 40 (5) The potential for job creation and market growth as a result of the use of  
41 compressed natural gas and biofuels as fuel sources for vehicles.
- 42 (6) The environmental impact of the alternative fuels.
- 43 (7) Any other relevant issues relating to the use of compressed natural gas and  
44 biofuels as fuel sources for vehicles.
- 45 (8) The identification of prospective energy companies that explore for and  
46 produce energy from natural gas, oil, wind, solar, or other energy sources  
47 capable of energy production and their availability to present the General  
48 Assembly with specific proposals for the production of energy in North  
49 Carolina..

- 1 (9) Actions that would promote the development of natural gas, oil, wind, solar,  
2 and other energy sources capable of energy production in North Carolina.  
3 The Commission shall specifically consider the use of incentives, including  
4 tax credits and other financial incentives, and changes to State law to reduce  
5 the regulatory burden on energy development and production in North  
6 Carolina.

7 **SECTION 52.4.** The Commission may report its recommendations and legislative  
8 proposals to the 2012 Regular Session of the 2011 General Assembly on or before its  
9 convening. The Commission shall terminate upon filing its report or upon the convening of the  
10 2013 General Assembly, whichever is earlier.

11  
12 **PART LIII. COMMERCIAL POULTRY HOUSE FIRE CODE LEGISLATIVE STUDY**  
13 **COMMISSION (H.B. 759 – Committee on Rules, Calendar, and Operations of the House)**

14 **SECTION 53.1.** Commission Created. – There is created the Commercial Poultry  
15 House Fire Code Legislative Study Commission ("Commission"). The Commission shall  
16 consist of 12 voting members appointed as follows:

- 17 (1) Four members appointed by the Governor, to include:  
18 a. One person who is a farmer engaged in the production of chickens.  
19 b. One person who is a representative of the State Building Codes  
20 Council.  
21 c. Two members of the general public.  
22 (2) Four members appointed by the President Pro Tempore of the Senate, to  
23 include:  
24 a. Three members of the Senate.  
25 b. One member of the general public.  
26 (3) Four members appointed by the Speaker of the House of Representatives, to  
27 include:  
28 a. Three members of the House of Representatives.  
29 b. One member of the general public.

30 **SECTION 53.2.(a)** Purposes. – The Commission shall do the following:

- 31 (1) Study the applicability, feasibility, and cost-effectiveness of current  
32 requirements for fire ratings, inspections, and fire flow under both the North  
33 Carolina Fire Code and under guidelines of the Insurance Services Office.  
34 For purposes of this section "North Carolina Fire Code" means the 2006  
35 International Fire Code with 2009 North Carolina Amendments adopted by  
36 the State Building Code Council.  
37 (2) Study any other matters that the Commission deems relevant.  
38 (3) Make an interim report to the General Assembly by the convening of the  
39 2012 Regular Session of the 2011 General Assembly.  
40 (4) Make a final report to the 2013 General Assembly that includes findings,  
41 recommendations, and legislative proposals relating to fire codes for  
42 commercial poultry houses.

43 **SECTION 53.2.(b)** Termination. – The Commission shall terminate upon filing its  
44 final report or upon the convening of the 2013 General Assembly, whichever is earlier.

45 **SECTION 53.2.(c)** Committee Operations. – The Speaker of the House of  
46 Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for  
47 the Commission. The Commission may contract for consultant services as provided by  
48 G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative  
49 Services Officer shall assign professional and clerical staff to assist in the work of the  
50 Commission. Clerical staff shall be furnished to the Commission through the offices of the

1 House of Representatives and the Senate Directors of Legislative Assistants. The Commission  
2 may meet in the Legislative Building or the Legislative Office Building upon the approval of  
3 the Legislative Services Commission. Members of the Commission shall receive per diem,  
4 subsistence, and travel allowances at the rate established in G.S. 120-3.1. The appointing  
5 authority shall fill vacancies. The Commission, while in the discharge of its official duties, may  
6 exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4,  
7 including the power to request all officers, agents, agencies, and departments of the State to  
8 provide any information, data, or documents within their possession, ascertainable from their  
9 records, or otherwise available to them and the power to subpoena witnesses.

10  
11 **PART LIV. JOINT LEGISLATIVE STUDY COMMITTEE ON FEDERAL SEX**  
12 **OFFENDER REGISTRATION AND NOTIFICATION ACT (SORNA) COMPLIANCE**  
13 **(H.B. 772 – House Judiciary Committee)**

14 **SECTION 54.1.(a)** Committee Established. – There is created the Joint Legislative  
15 Study Committee on Federal Sex Offender Registration and Notification Act (SORNA)  
16 Compliance. The Committee shall consist of 10 members to be appointed as follows:

- 17 (1) Five members of the House of Representatives appointed by the Speaker of  
18 the House of Representatives.
- 19 (2) Five members of the Senate appointed by the President Pro Tempore of the  
20 Senate.

21 The Speaker of the House of Representatives shall designate one representative as  
22 cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair.  
23 Vacancies on the Committee shall be filled by the same appointing authority making the initial  
24 appointment.

25 The Committee, while in the discharge of its official duties, may exercise all powers  
26 provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may  
27 meet at any time upon the joint call of the cochairs. The Committee may meet in the Legislative  
28 Building or the Legislative Office Building. The Committee may contract for professional,  
29 clerical, or consultant services as provided by G.S. 120-32.02.

30 The Legislative Services Commission, through the Legislative Services Officer,  
31 shall assign professional staff to assist the Committee in its work. The House of  
32 Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to  
33 the Committee, and the expenses relating to the clerical employees shall be borne by the  
34 Committee. Members of the Committee shall receive subsistence and travel expenses at the  
35 rates set forth in G.S. 120-3.1.

36 **SECTION 54.1.(b)** Duties. – The Committee shall study and make  
37 recommendations on the following:

- 38 (1) The requirements of SORNA and the changes required in State law to bring  
39 the State into compliance with those requirements.
- 40 (2) The potential cost to State and local agencies to implement the requirements  
41 of SORNA compared to the potential loss of grant funding for failure to  
42 comply.
- 43 (3) Whether the current State registration requirements are meeting the needs of  
44 the State and providing adequate public safety.
- 45 (4) Whether the State should comply with the requirements of SORNA, and if  
46 so, make specific recommendations for the implementation of SORNA.

47 **SECTION 54.1.(c)** Report. – The Committee may make a final report, including  
48 any proposed legislation, to the 2012 General Assembly upon its convening. The Committee  
49 shall terminate upon filing its final report or upon the convening of the 2012 General  
50 Assembly, whichever is earlier.



1  
2 **PART LV. JOINT LEGISLATIVE STUDY COMMISSION ON COASTAL PROPERTY**  
3 **INSURANCE RATES (H.B. 820 – McElraft, Hamilton, Justice, Rapp)**

4 **SECTION 55.1.** There is created the Joint Legislative Study Commission on  
5 Coastal Property Insurance Rates. The Commission shall consist of 14 members appointed as  
6 follows:

- 7 (1) The Commissioner of Insurance or his designee, serving ex officio.  
8 (2) A representative of the North Carolina Rate Bureau.  
9 (3) A representative of the North Carolina Insurance Underwriting Association.  
10 (4) Three members appointed by the Governor, to include one member of the  
11 general public who resides in the coastal area of the State, one member of  
12 the general public who resides in the beach area of the State, and one  
13 member of the general public who resides outside the beach and coastal  
14 areas of the State. For purposes of this subdivision, "coastal area" and "beach  
15 area" shall have the definitions specified by G.S. 58-45-5.  
16 (5) Four members appointed by the Speaker of the House of Representatives, to  
17 include three members of the House of Representatives and one member to  
18 represent the interests of companies writing property insurance policies in  
19 the State.  
20 (6) Four members appointed by the President Pro Tempore of the Senate, to  
21 include three members of the Senate and one person who represents the  
22 interests of insurance agents.

23 Vacancies on the Commission shall be filled by the appointing authority. A quorum  
24 of the Commission shall consist of eight members.

25 The Speaker of the House of Representatives and the President Pro Tempore of the  
26 Senate shall each appoint a cochair for the Commission. The Commission may meet at any  
27 time upon the joint call of the cochairs.

28 The Commission, while in the discharge of its official duties, may exercise all the  
29 powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the  
30 power to request all officers, agents, agencies, and departments of the State to provide any  
31 information, data, or documents within their possession, ascertainable from the records, or  
32 otherwise available to them, and the power to subpoena witnesses.

33 The Commission may contract for professional, clerical, or consultant services as  
34 provided by G.S. 120-32.02.

35 **SECTION 55.2.** Purpose. – The Commission shall study the following:

- 36 (1) The feasibility and advisability of replacing the North Carolina Insurance  
37 Underwriting Association and the North Carolina Joint Underwriting  
38 Association with a statewide catastrophic fund which pools the risks to  
39 North Carolina policy holders from all types of natural disasters.  
40 (2) Whether coastal insurance rates on policies ceded to the North Carolina  
41 Insurance Underwriting Association, the composition of the Association's  
42 Board of Directors, and the Association's plan of operations are efficient,  
43 economical, fair, and nondiscriminatory in protecting the interests of beach  
44 and coastal areas of the State, compared to other coastal states.  
45 (3) Whether the data and methodologies used by the North Carolina Insurance  
46 Underwriting Association in estimating probable maximum loss accurately  
47 model insurable risks for property located in the beach and coastal areas of  
48 the State.

- 1 (4) The feasibility and advisability of offering coastal and beach area property  
2 owners the option of self-insuring by declining wind and hail coverage in  
3 situations where no third party has an insurable interest in the property.  
4 (5) The adequacy of accounting and oversight of the North Carolina Insurance  
5 Underwriting Association's accumulated surplus.  
6 (6) Whether the mitigation credits provided by the North Carolina Insurance  
7 Underwriting Association pursuant to G.S. 58-45-45(e) are fair and  
8 nondiscriminatory and whether the schedule of credits, when compared to  
9 the cost of mitigation measures provides adequate incentive for beach and  
10 coastal area property owners to invest in such measures.

11 **SECTION 55.3.** Staff. – Upon approval of the Legislative Services Commission,  
12 the Legislative Services Officer shall assign professional and clerical staff to assist in the work  
13 of the Commission. Clerical staff shall be furnished to the Commission through the offices of  
14 the House of Representatives and Senate Supervisors of Clerks.

15 **SECTION 55.4.** Meeting location. – The Commission may meet in the Legislative  
16 Building or Legislative Office Building upon the approval of the Legislative Services  
17 Commission.

18 **SECTION 55.5.** Expenses of members. – Members of the Commission shall  
19 receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1.

20 **SECTION 55.6.** Report. – The Commission shall submit an interim report to the  
21 2012 Regular Session of the 2011 General Assembly prior to its reconvening and shall make a  
22 final report to the 2013 Regular Session of the General Assembly prior to its convening. The  
23 report shall contain the Commission's findings, recommendations, legislative proposals, and  
24 cost analyses. The Commission shall terminate upon filing its final report or upon the  
25 convening of the 2013 General Assembly, whichever is earlier.

26  
27 **PART LVI. JOINT LEGISLATIVE STUDY COMMITTEE ON GLOBAL**  
28 **ENGAGEMENT (H.B. 23 – Carney, Dollar, L. Brown, Wilkins; S.B. 15 – Brunstetter,**  
29 **Stein)**

30 **SECTION 56.1.** Committee established. – There is created the Joint Legislative  
31 Study Committee on Global Engagement. The Committee shall consist of 14 members to be  
32 appointed as follows:

- 33 (1) Seven members of the House of Representatives appointed by the Speaker of  
34 the House of Representatives.  
35 (2) Seven members of the Senate appointed by the President Pro Tempore of the  
36 Senate.

37 The Speaker of the House of Representatives shall designate one representative as  
38 cochair, and the President Pro Tempore of the Senate shall designate one senator as cochair.  
39 Vacancies on the Committee shall be filled by the same appointing authority making the initial  
40 appointment.

41 The Committee, while in the discharge of its official duties, may exercise all powers  
42 provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee may  
43 meet at any time upon the joint call of the cochairs. The Committee may meet in the Legislative  
44 Building or the Legislative Office Building. The Committee may contract for professional,  
45 clerical, or consultant services as provided by G.S. 120-32.02.

46 The Legislative Services Commission, through the Legislative Services Officer,  
47 shall assign professional staff to assist the Committee in its work. The House of  
48 Representatives and the Senate's Directors of Legislative Assistants shall assign clerical staff to  
49 the Committee, and the expenses relating to the clerical employees shall be borne by the

1 Committee. Members of the Committee shall receive subsistence and travel expenses at the  
2 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

3 **SECTION 56.2. Duties.** – The Committee shall continue the work of the Joint  
4 Select Committee on Global Engagement created pursuant to G.S. 120-19.6(a1), Rule 31 of the  
5 Rules of the Senate of the 2009 General Assembly, and Rule 26(a) of the House of  
6 Representatives of the 2009 General Assembly by continuing to work toward promoting  
7 economic growth and stimulating job creation in the global economy. To that end, the  
8 Committee may work in conjunction with the Center for International Understanding to  
9 develop a Statewide Strategic Plan for Global Engagement. The Committee may study the  
10 following:

- 11 (1) North Carolina's current international activity in the business, State  
12 government, and education sectors.
- 13 (2) Barriers to international trade that may be addressed by legislation.
- 14 (3) Ways to increase coordination, synchronization, and intercommunication  
15 between State and local governmental entities.
- 16 (4) Data collection and analysis of global business trends.
- 17 (5) Representation options for North Carolina responsible for soliciting,  
18 targeting, educating, and recruiting international businesses to North  
19 Carolina.
- 20 (6) Incentives designed to encourage small businesses to export goods and  
21 service solutions.
- 22 (7) Methods for positioning North Carolina as a portal to North America for  
23 international trade.
- 24 (8) Means to increase foreign direct investment in North Carolina.

25 **SECTION 56.3. Report.** – The Committee may make a final report, including any  
26 proposed legislation, to the 2012 Session of the 2011 General Assembly upon its convening.  
27 The Committee shall terminate upon filing its final report or upon the convening of the 2012  
28 Session of the 2011 General Assembly, whichever is earlier.

29  
30 **PART LVII. REESTABLISH JOINT SELECT COMMITTEE ON EX-OFFENDER**  
31 **REINTEGRATION INTO SOCIETY (H.B. 269 – Guice, Bryant, Pierce; S.B. 301 –**  
32 **Hartsell, Dannelly, Jones)**

33 **SECTION 57.1.** The General Assembly finds that each year tens of thousands of  
34 individuals are arrested, convicted of crimes, placed on probation, sent to prison, or released  
35 from prison. The safety of our communities depends on the successful reintegration of these  
36 individuals into society. Most of these individuals need assistance finding jobs, increasing their  
37 education, or accessing other essential services in order to successfully reintegrate into society  
38 and improve their lives. However, most ex-offenders will encounter an array of barriers that  
39 hinder their ability to become productive members of society. Ex-offenders who are barred  
40 from housing, jobs, occupational licenses, needed services, education, and training are far more  
41 likely to commit new crimes than they would be if they had the options and responsibilities that  
42 most citizens take for granted. Further, the General Assembly finds that reducing recidivism  
43 saves much needed resources by reducing the need for prison construction and makes our  
44 communities a safer place to live. To that end, the Joint Select Committee on Ex-Offender  
45 Reintegration Into Society is reestablished.

46 **SECTION 57.2.** The Committee shall consist of 16 members, eight of whom shall  
47 be appointed by the Speaker of the House of Representatives, and eight of whom shall be  
48 appointed by the President Pro Tempore of the Senate. Of the eight members appointed by the  
49 Speaker of the House of Representatives, one shall be a public member who is an employee of  
50 an organization that provides ex-offender services, and one shall be a public member who is a

1 successful ex-offender. Of the eight members appointed by the President Pro Tempore of the  
2 Senate, one shall be a public member who is an employee of an organization that provides  
3 ex-offender services, and one shall be a public member who is a successful ex-offender.

4 The Speaker of the House of Representatives and the President Pro Tempore of the  
5 Senate each shall appoint a cochair for the Committee. The Committee may meet at any time  
6 upon the joint call of the cochairs. A cochair or other member of the committee shall continue  
7 to serve until a successor is appointed. Vacancies on the Committee shall be filled by the same  
8 appointing authority as made the initial appointment.

9 **SECTION 57.3.** The Committee, while in the discharge of its official duties, may  
10 exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.  
11 The Committee may contract for professional, clerical, or consultant services as provided by  
12 G.S. 120-32.02.

13 Subject to the approval of the Legislative Services Commission, the Committee may  
14 meet in the Legislative Building or the Legislative Office Building. The Legislative Services  
15 Commission, through the Legislative Services Officer, shall assign professional staff to assist  
16 the Committee in its work. The House of Representatives' and the Senate's Supervisors of  
17 Clerks shall assign clerical support staff to the Committee, and the expenses relating to the  
18 clerical employees shall be borne by the Committee. Members of the Committee shall receive  
19 subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as  
20 appropriate.

21 **SECTION 57.4.** The Committee shall study issues related to reintegration of  
22 offenders following incarceration. Specifically, the Committee shall study how North Carolina  
23 and other states address barriers facing ex-offenders in accessing jobs, housing, education,  
24 training, and services and determine best practices that reduce recidivism. There have been  
25 recommendations regarding these issues from a similar committee during the 2010-2011  
26 session and from the StreetSafe Task Force and the Justice Reinvestment Project; however,  
27 major areas remain to be addressed. In connection with this study, the Committee may consider  
28 and report on all of the following:

- 29 (1) The definition, accuracy, sale, and regulation of criminal records.
- 30 (2) Systemic and legal barriers to employment, housing, education, training, and  
31 services.
- 32 (3) The availability and coordination of needed services and programs for  
33 successful reentry.
- 34 (4) Best practices for reducing recidivism.
- 35 (5) Transitional services for ex-offenders with high and complex needs.
- 36 (6) Use and expansion of drug and mental health courts to divert from prison  
37 people who need treatment.
- 38 (7) A comprehensive review of the collateral consequences for conviction of  
39 criminal offenses, and where appropriate, the clarity, consistency, and  
40 reduction of such consequences along with notice to offenders and court  
41 officials of these consequences.
- 42 (8) The capacity, effectiveness, and replicability of statewide and  
43 community-based programs to meet the risks and needs of both the  
44 supervised and unsupervised population returning from prison.
- 45 (9) Status of recommendations from the StreetSafe Task Force, Justice  
46 Reinvestment Project, and the Joint Select Committee on Ex-Offender  
47 Reintegration Into Society that was established January 22, 2010.
- 48 (10) Best practices to address and reduce the disproportionate representation of  
49 people of color in the offender population.

1           **SECTION 57.5.** The Committee may submit an interim report of its findings and  
2 recommendations, including any legislative recommendations, to the 2012 Regular Session of  
3 the 2011 General Assembly upon its convening and shall submit a final report of its findings  
4 and recommendations, including any legislative recommendations, to the 2013 General  
5 Assembly upon its convening. The Committee shall terminate on the convening of the 2013  
6 General Assembly.

7  
8 **PART LVIII. REESTABLISH HOUSE STUDY COMMITTEE TO PRESERVE THE**  
9 **CULTURE AND CUSTOMS OF INDIAN CHILDREN (H.B. 680 – Graham, Pierce; H.B.**  
10 **681 – Graham, Pierce, Brandon)**

11           **SECTION 58.1.** The House Select Committee on the Preservation of Culture and  
12 Customs of Indian Children, authorized by Section 2.12 of S.L. 2009-574, is reestablished. The  
13 Committee shall consist of nine members appointed by the Speaker of the House of  
14 Representatives as follows:

- 15           (1) Four members from the House of Representatives, one of which shall be a  
16 Native American.
- 17           (2) One member from the State Commission on Indian Affairs.
- 18           (3) One member from the Child Welfare Services Section of the Division of  
19 Social Services, Department of Health and Human Services.
- 20           (4) One member to be selected by the American Indian Mothers, Inc.
- 21           (5) One member from the Cherokee tribe.
- 22           (6) One member from a State-recognized tribe.

23           The Speaker of the House of Representatives shall designate one representative as  
24 chair. Vacancies of the Committee shall be filled by the same appointing authority that made  
25 the initial appointment. The Committee shall meet on the call of the chair. A quorum of the  
26 Committee shall be a majority of its members.

27           **SECTION 58.2.** The Committee shall examine any issues or matters which would  
28 impact the preservation of the customs and culture of Indian children who are not covered  
29 under the ICWA and who are the subject of legal proceedings in State courts, including, but not  
30 limited, to adoption, custody, and visitation. The House Select Committee may continue to  
31 study the following:

- 32           (1) Current State laws applicable to family-related legal proceedings and their  
33 impact on retention of the cultural heritage of child members of Indian  
34 tribes.
- 35           (2) Guidelines for local departments of social service agencies that would  
36 implement the same or similar policies and practices that are applicable to  
37 Indian children under federal law.
- 38           (3) The creation of a State council or commission, to include members of Indian  
39 tribes, State and local social services agencies, the judiciary, and other  
40 appropriate officials to recommend policies and procedures to the General  
41 Assembly.
- 42           (4) The impact of American Indian sports mascots and logos at the public  
43 schools and current policies and procedures on their use.
- 44           (5) Any other matter that is relevant to promoting the preservation of the  
45 customs and culture of Indian children who are the subject of legal  
46 proceedings in State courts.

47           **SECTION 58.3.** While in the discharge of its official duties, the Committee may  
48 exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.  
49 Members of the Committee shall receive per diem, subsistence, and travel allowance as  
50 provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. With the prior approval of the

1 Legislative Services Commission, the Legislative Services Officer shall assign professional and  
2 clerical staff to assist the Committee in its work. The House of Representatives shall assign  
3 clerical staff to the Committee. The Committee may contract for professional, clerical, or  
4 consultant services as provided by G.S. 120-32.02. The Committee may meet in the  
5 Legislative Building or Legislative Office Building and may meet at various locations around  
6 the State in order to promote greater public participation in its deliberations.

7 **SECTION 58.4.** The Committee shall submit a final report to the 2012 Regular  
8 Session of the 2011 General Assembly and may submit interim reports as it deems necessary.  
9 The Committee shall terminate upon filing its final report or upon the convening of the 2012  
10 Regular Session of the 2011 General Assembly, whichever comes first.

11  
12 **PART LIX. REESTABLISH JOINT LEGISLATIVE STUDY COMMISSION ON**  
13 **PUBLIC-PRIVATE PARTNERSHIPS (H.B. 320 – McGee, Ross, McComas, Carney; S.B.**  
14 **278 – Jenkins)**

15 **SECTION 59.1.** There is established the Legislative Study Commission on  
16 Public-Private Partnerships.

17 **SECTION 59.2.** The Commission shall be composed of 16 members, as follows:

- 18 (1) Five members of the Senate, appointed by the President Pro Tempore of the  
19 Senate.
- 20 (2) Five members of the House of Representatives, appointed by the Speaker of  
21 the House of Representatives.
- 22 (3) Three public members, appointed by the Speaker of the House of  
23 Representatives.
- 24 (4) Three public members, appointed by the President Pro Tempore of the  
25 Senate.

26 The Commission shall include, and consult with, the Secretary of Transportation,  
27 the North Carolina Turnpike Authority, the State Treasurer, the Local Government  
28 Commission, the State Construction Office, the North Carolina Association of County  
29 Commissioners, the North Carolina League of Municipalities, and the North Carolina School  
30 Boards Association in the course of its deliberations.

31 Public members shall be residents of the State. Vacancies on the Commission shall  
32 be filled by the appointing authority. The President Pro Tempore of the Senate and the Speaker  
33 of the House of Representatives each shall designate a cochair, who shall be a member of the  
34 General Assembly. A quorum of the Commission shall be 10 members.

35 The Commission, while in the discharge of its official duties, may exercise all  
36 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The  
37 Commission may meet at any time upon call of the chairs. The Commission may meet in the  
38 Legislative Building or the Legislative Office Building. The Commission may contract for  
39 professional, clerical, or consultant services as provided by G.S. 120-32.02.

40 The Legislative Services Commission, through the Legislative Services Officer,  
41 shall assign professional staff to assist the Commission in its work. The House of  
42 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the  
43 Commission, and the expenses relating to the clerical employees shall be borne by the  
44 Commission. Members of the Commission shall receive subsistence and travel expenses at the  
45 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

46 **SECTION 59.3.** The Commission shall study issues related to Public-Private  
47 Partnerships (PPPs), including examination of the appropriate authority for State, regional, and  
48 local government units to engage in PPPs for public capital projects through a regulatory  
49 framework. As part of its study, the Commission may study infrastructure banks and any other  
50 relevant issues it deems appropriate.

1           **SECTION 59.4.** The Commission may report its recommendations and legislative  
2 proposals to the 2012 Regular Session of the 2011 General Assembly on or before its  
3 convening. The Commission shall terminate upon filing its report or upon the convening of the  
4 2013 General Assembly, whichever is earlier.

5  
6 **PART LX. LEGISLATIVE STUDY COMMISSION ON IMPROVEMENT IN**  
7 **SMALL-DOLLAR LENDING (H.B. 810 – Steen, Brubaker, Owens, K. Alexander)**

8           **SECTION 60.1.** There is created the North Carolina Legislative Study Commission  
9 on Improvement in Small-Dollar Lending. The purpose of the Commission is to determine  
10 what measures the General Assembly may undertake to appropriately update G.S. 53-173 of  
11 the North Carolina Consumer Finance Act.

12           **SECTION 60.2.** The Commission shall consist of the following 16 members:

- 13           (1) Five members of the House of Representatives appointed by the Speaker of  
14 the House of Representatives.
- 15           (2) Five members of the Senate appointed by the President Pro Tempore of the  
16 Senate.
- 17           (3) One member of the consumer finance industry, one member of a consumer  
18 advocacy organization, and one member representing a State-chartered bank,  
19 each appointed by the Speaker of the House of Representatives.
- 20           (4) One member of the consumer finance industry, one member of a consumer  
21 advocacy organization, and one member representing a State-chartered  
22 credit union, each appointed by the President Pro Tempore of the Senate.

23           **SECTION 60.3.** The Speaker of the House of Representatives shall designate one  
24 representative as co-chair and the President Pro Tempore of the Senate shall designate one  
25 senator as co-chair. The Commission shall meet upon the call of the co-chairs. Vacancies on  
26 the Commission shall be filled by the same appointing authority as made the initial  
27 appointment. A quorum of the Commission shall be a majority of its members.

28           **SECTION 60.4.** The Commission shall study the following issues related to  
29 designating appropriate features for a small-dollar loan product and the economic requirements  
30 for market sustainability and availability for loans made under G.S. 53-173 of the North  
31 Carolina Consumer Finance Act:

- 32           (1) Appropriate features of small dollar installment loans for consumer safety  
33 and accountability; that is transparency, fairness, transaction structure, and  
34 sustainability for individuals borrowing funds under this section.
- 35           (2) The costs of operations and economic sustainability for the consumer  
36 finance industry and its impact on the availability and delivery of small  
37 dollar loan products under this section, with specific emphasis on loans  
38 under \$3,000.
- 39           (3) Appropriate ceiling of the maximum dollar amount to be lent to an  
40 individual consumer under this section.
- 41           (4) What, if any, are appropriate restrictions on pricing or transaction fees under  
42 this section to encourage safety, responsibility, competition, and availability.
- 43           (5) Any other matters the Commission considers necessary in furtherance of the  
44 purpose for which it is established.

45           **SECTION 60.5.** Members of the Commission shall receive per diem, subsistence,  
46 and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The  
47 Commission, while in the discharge of its official duties, may exercise all powers provided for  
48 under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the  
49 Legislative Building or the Legislative Office Building.

1 With approval of the Legislative Services Commission, the Legislative Services  
2 Officer shall assign professional staff to assist the Commission in its work. The House of  
3 Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to  
4 the Commission, and the expenses relating to the clerical employees shall be borne by the  
5 Commission. The Commission may contract for professional, clerical, or consultant services as  
6 provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a  
7 State employee or a person currently under contract with the State to provide services.

8 All State departments and agencies and local governments and their subdivisions  
9 shall furnish the Commission with any information in their possession or available to them.

10 **SECTION 60.6.** The Commission shall report the results of its study and its  
11 recommendations, including any proposed legislative changes, to the 2012 Regular Session of  
12 the 2011 General Assembly. The Commission shall terminate on May 1, 2012, or upon the  
13 filing of its final report, whichever occurs first.

14  
15 **PART LXI. AUTOMOBILE INSURANCE MODERNIZATION STUDY COMMISSION**  
16 **(H.B. 834 – Rhyne; S.B. 477 – Apodaca; S.B. 490 – Rucho)**

17 **SECTION 61.1.** There is created the Automobile Insurance Modernization Study  
18 Commission. The Commission shall consist of 17 members as follows:

- 19 (1) Five members of the House of Representatives appointed by the Speaker of  
20 the House.
- 21 (2) Five members of the Senate appointed by the President Pro Tempore of the  
22 Senate.
- 23 (3) The Commissioner of Insurance of the Commissioner's designee.
- 24 (4) One representative of an automobile insurance company appointed by the  
25 Speaker of the House.
- 26 (5) One representative of an automobile insurance company appointed by the  
27 President Pro Tempore of the Senate.
- 28 (6) One independent insurance agent appointed by the Speaker of the House.
- 29 (7) One exclusive insurance agent appointed by the President Pro Tempore of  
30 the Senate.
- 31 (8) One representative of an academic institution of higher learning located in  
32 the State of North Carolina knowledgeable in insurance and insurance  
33 regulation appointed by the Speaker of the House.
- 34 (9) One representative of a research or academic institution familiar with  
35 automobile insurance regulatory systems in other states appointed by the  
36 President Pro Tempore of the Senate.

37 **SECTION 61.2.** The Commission shall study issues related to the method and  
38 manner of establishing automobile insurance rates in North Carolina, to ensure consumers are  
39 receiving the fullest possible benefit from marketplace competition among insurers on pricing,  
40 product, and coverage options. The study shall include, but is not limited to, review of the  
41 insurance regulatory systems in other states; model laws and recommendations of the National  
42 Association of Insurance Commissioners and the National Conference of Insurance Legislators,  
43 the North Carolina Rate Bureau, the North Carolina Reinsurance Facility, and the Safe Driver  
44 Incentive Program; current and proposed restrictions and regulations on automobile insurance  
45 pricing, underwriting, and related issues; the method and effectiveness of assuring health  
46 voluntary and involuntary automobile insurance markets; and the effect of modernizing the  
47 automobile insurance regulatory system upon the revenues, expenses, and operations of the  
48 Department of Insurance and the State of North Carolina.

49 **SECTION 61.3.** The Speaker of the House of Representatives and the President  
50 Pro Tempore of the Senate shall each appoint a co-chair for the Commission. The Commission



1 may contract for consultant services as provided by G.S. 120-32.02. Upon approval of the  
2 Legislative Services Commission, the Legislative Services Officer shall assign professional and  
3 clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the  
4 Commission through the offices of the House of Representatives and Senate Directors of  
5 Legislative Assistants. The Commission may meet in the Legislative Building or the  
6 Legislative Office Building or other facilities of the State of North Carolina upon the approval  
7 of the Legislative Services Commission. The Commission, while in discharge of official duties,  
8 may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-  
9 19.4, including the power to request all officers, agents, agencies, and departments of the State  
10 to provide any information, data, or documents within their possession, ascertainable from their  
11 records, or otherwise available to them, and the power to subpoena witnesses. Members of the  
12 Commission shall receive per diem, subsistence, and travel allowances at the rate established in  
13 G.S. 120-3.1, 138-5, or 138-6, as appropriate. The appointing authority shall fill any vacancies.

14 **SECTION 61.4.** The Commission shall submit a final report, including all  
15 recommended legislation, to the 2012 Regular Session of the 2011 General Assembly. The  
16 Commission shall terminate the filing of its final report or upon the convening of the 2012  
17 Regular Session of the 2011 General Assembly, whichever is earlier.

18 **SECTION 61.5.** From the funds available to the General Assembly, the Legislative  
19 Services Commission may allocate monies to fund the work of the Commission.

20  
21 **PART LXII. BLUE RIBBON COMMISSION TO STUDY THE NEED FOR TORT**  
22 **REFORM (H.B. 732 – Blust, Daughtry)**

23 **SECTION 62.1.** Commission Established. – There is established in the General  
24 Assembly a Blue Ribbon Commission to study the need for reform of the laws governing tort  
25 claims.

26 **SECTION 62.2.** Membership. – The Commission shall be composed of 25  
27 members as follows:

- 28 (1) Four members of the House of Representatives appointed by the Speaker of  
29 the House of Representatives.
- 30 (2) Four members of the Senate appointed by the President Pro Tempore of the  
31 Senate.
- 32 (3) Four persons appointed by the Governor.
- 33 (4) Two persons representing the defense bar, appointed by the North Carolina  
34 Association of Defense Attorneys.
- 35 (5) Two persons representing liability insurers, appointed by the North Carolina  
36 Insurance Federation.
- 37 (6) Two persons representing the plaintiff's trial bar, appointed by the North  
38 Carolina Advocates for Justice.
- 39 (7) Three persons appointed by the North Carolina Bar Association, to include  
40 at least one Professor of Torts from a law school in North Carolina.
- 41 (8) Four judges of the General Court of Justice appointed by the Chief Justice of  
42 the North Carolina Supreme Court.

43 **SECTION 62.3.** Duties of Commission. – The Commission shall study the  
44 following subjects relating to reform of North Carolina law of tort:

- 45 (1) The adoption of comparative negligence in lieu of contributory negligence.
- 46 (2) The adoption of several liability in lieu of joint and several liability in tort.
- 47 (3) The economic impact of any proposals for tort reform considered by the  
48 Commission, including the impact on accident victims, businesses, insurers,  
49 and State and local government.

1 (4) Any other subjects relating to tort law reform that the Commission  
2 determines to be in the public interest to study.

3 (5) The issues of nonattorney ownership of professional corporation law firms.  
4 As a part of its study, the Commission shall review the issues raised by the  
5 first edition of House Bill 832, 2011 General Assembly.

6 **SECTION 62.4. Vacancies.** – Any vacancy on the Commission shall be filled by  
7 the appointing authority.

8 **SECTION 62.5. Cochairs.** – Cochairs of the Commission shall be designated by the  
9 Speaker of the House of Representatives and the President Pro Tempore of the Senate from  
10 among their respective appointees. The Commission shall meet upon the  
11 call of the chairs. A quorum of the Commission shall be 13 members.

12 **SECTION 62.6. Expenses of Members.** – Members of the Commission shall  
13 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or  
14 138-6, as appropriate.

15 **SECTION 62.7. Staff.** – Adequate staff shall be provided to the Commission by the  
16 Legislative Services Office.

17 **SECTION 62.8. Consultants.** – The Commission may hire consultants to assist with  
18 the study. Before expending any funds for a consultant, the Commission shall report to the  
19 Joint Legislative Commission on Governmental Operations on the consultant selected, the work  
20 products to be provided by the consultant, and the cost of the contract, including an itemization  
21 of the cost components.

22 **SECTION 62.9. Cooperation.** – The Commission may call upon any department,  
23 agency, institution, or officer of the State or any political subdivision thereof for facilities, data,  
24 or other assistance.

25 **SECTION 62.10. Meetings During Legislative Session.** – The Commission may  
26 meet during a regular or extra session of the General Assembly, subject to approval of the  
27 Speaker of the House of Representatives and the President Pro Tempore of the Senate.

28 **SECTION 62.11. Meeting Location.** – The Legislative Services Commission shall  
29 grant adequate meeting space to the Commission in the State Legislative Building or the  
30 Legislative Office Building.

31 **SECTION 62.12. Report.** – The Commission shall make an interim report of its  
32 findings and recommendations to the 2012 Regular Session of the 2011 General Assembly and  
33 shall make a final report of its findings and recommendations to the 2013 General Assembly.  
34 The Committee shall submit copies of the reports to the Governor. The Commission shall  
35 terminate upon filing its report or upon the convening of the 2013 General Assembly,  
36 whichever is earlier.

37  
38 **PART LXIII. HOUSE SELECT COMMITTEE ON EXTRATERRITORIAL**  
39 **JURISDICTION (H.B. 281 – LaRoque)**

40 **SECTION 63.1.** The House Select Committee on Extraterritorial Jurisdiction is  
41 hereby established. The Committee shall consist of eight members appointed by the Speaker of  
42 the House of Representatives and the President Pro Tempore of the Senate as follows:

43 (1) Four members from the House of Representatives.

44 (2) Four members from the Senate.

45 The Speaker of the House of Representatives shall designate one representative as  
46 cochair. The President Pro Tempore shall designate one senator as cochair. Vacancies of the  
47 Committee shall be filled by the same appointing authority that made the initial appointment.  
48 The Committee shall meet on the call of the cochairs. A quorum of the Committee shall be a  
49 majority of its members.

1           **SECTION 63.2.** The Committee shall examine any issues or matters which would  
2 impact the exercise of extraterritorial jurisdiction by cities and the impact of such jurisdiction  
3 on counties, property owners, and residents. The House Select Committee may continue to  
4 study the following:

- 5           (1) Current State laws applicable to extraterritorial jurisdiction.
- 6           (2) Issues addressed by House Bill 281, 2011 Regular Session.
- 7           (3) Any other matter that is relevant to the exercise of extraterritorial  
8 jurisdiction by cities in this State.

9           **SECTION 63.3.** While in the discharge of its official duties, the Committee may  
10 exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.  
11 Members of the Committee shall receive per diem, subsistence, and travel allowance as  
12 provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. With the prior approval of the  
13 Legislative Services Commission, the Legislative Services Officer shall assign professional and  
14 clerical staff to assist the Committee in its work. The Senate and House of Representatives shall  
15 assign clerical staff to the Committee. The Committee may contract for professional, clerical,  
16 or consultant services as provided by G.S. 120-32.02. The Committee may meet in the  
17 Legislative Building or Legislative Office Building and may meet at various locations around  
18 the State in order to promote greater public participation in its deliberations.

19           **SECTION 63.4.** The Committee shall submit a final report to the 2012 Regular  
20 Session of the 2011 General Assembly and may submit interim reports as it deems necessary.  
21 The Committee shall terminate upon filing its final report or upon the convening of the 2012  
22 Regular Session of the 2011 General Assembly, whichever comes first.

#### 23 24 **PART LXIV. OUT-OF-STATE TRAVEL**

25           **SECTION 64.1.** For legislative studies authorized by this act, out-of-state travel  
26 must be authorized by the President Pro Tempore of the Senate or the Speaker of the House of  
27 Representatives, as appropriate.

#### 28 29 **PART LXV. BILL AND RESOLUTION REFERENCES**

30           **SECTION 65.1.** The listing of the original bill or resolution in this act is for  
31 reference purposes only and may not be deemed to have incorporated by reference any of the  
32 substantive provisions contained in the original bill or resolution.

#### 33 34 **PART LXVI. EFFECTIVE DATE AND APPLICABILITY**

35           **SECTION 66.1.** Except as otherwise specifically provided, this act is effective  
36 when it becomes law. If a study is authorized both in this act and in the Current Operations and  
37 Capital Improvements Appropriations Act of 2011, the study shall be implemented in  
38 accordance with the Current Operations and Capital Improvements Appropriations Act of 2011  
39 as ratified.



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 773

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

H773-ARW-49 [v.2]

Page 1 of 1

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

Date \_\_\_\_\_, 2011

Senator Apodaca

- 1 moves to amend the bill on page 9, lines 14-19, by deleting those lines; and
- 2
- 3 on page 9, line 20, by rewriting that line to read:
- 4 "(3) Any other matter reasonably related to (1) and (2) above, in the discretion of
- 5 the Commission."

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* H 7 7 3 - A R W - 4 9 - V - 2 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 656\*  
Committee Substitute Favorable 5/25/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H656-CSSH-36 [v.1]

6/16/2011 12:51:39 PM

Short Title: Allow Sheriff's Assn. in LGERS.

(Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT AMEND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT  
SYSTEM TO INCLUDE THE NORTH CAROLINA SHERIFFS' ASSOCIATION AS AN  
EMPLOYER.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** The North Carolina Sheriffs' Association is an instrumentality of the State because it is controlled by the constitutionally elected Sheriffs of the State; acts on a collective basis to support the Sheriffs in their constitutionally mandated duties; provides coordination between State government officials and agencies; serves as a central information clearinghouse for Sheriffs' offices; provides input on minimum standards for the operation of local confinement facilities; and is required by statute to appoint members to boards and commissions including the North Carolina Sheriffs' Education and Training Standards Commission.

**SECTION 1.(b)** G.S. 128-21 reads as rewritten:

**"§ 128-21. Definitions.**

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

(11) "Employer" shall mean any county, incorporated city or town, the board of alcoholic control of any county or incorporated city or town, the North Carolina League of Municipalities, ~~and the State Association of County Commissioners.~~ Commissioners, and the North Carolina Sheriffs' Association. "Employer" shall also mean any separate, juristic political subdivision of the State as may be approved by the Board of Trustees upon the advice of the Attorney General.

...."

**SECTION 2.** This act becomes effective July 1, 2011.



**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Thursday, June 16, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

H.B.	773	Studies Act of 2011.	
		Draft Number:	50410
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO  
SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)	652	Property Owners Protection Act/Study.	
		Draft Number:	70261
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO  
SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)	656	Controlled Substances/Photo ID.	
		Draft Number:	30405
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 3

Committee Clerk Comments:

Sen. Apodaca will handle these bills

**2011-2012**

**SENATE  
RULES**

**MINUTES**

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 17 2011

The Committee on Rules and Operations of the Senate met during a recess on June 17, 2011 at 10:10 P.M. at Senator Apodaca's Chamber Desk. Fourteen members of the committee were present. Senator Apodaca presided.

**HOUSE BILL 761 – Ignition Interlock Systems/Record Checks** – Senator Brown explained the bill. Senator Meredith moved for a favorable report. Motion carried.

*Senati* **HOUSE BILL 555 – Study Modernization of Banking Laws** – Senator Apodaca explained the bill. Senator Stein moved for a favorable report. Motion carried.

The meeting adjourned at 10:15 P.M.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant



**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

H

3

**HOUSE BILL 761  
Committee Substitute Favorable 6/7/11  
Committee Substitute #2 Favorable 6/15/11**

Short Title: Ignition Interlock Systems/Record Checks. (Public)

Sponsors:

Referred to:

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE TAMPERING WITH AN IGNITION INTERLOCK SYSTEM AN UNLAWFUL ACT, TO REMOVE COLORED BORDER REQUIREMENTS FROM CERTAIN LICENSES, TO CLARIFY THAT SPECIAL IDENTIFICATION CARDS ARE SUBJECT TO VIOLATION PROVISIONS, AND TO ALLOW THE DIVISION OF MOTOR VEHICLES TO CONDUCT BACKGROUND INVESTIGATIONS ON EVERY PERSON APPLYING FOR A RESTORATION OF A REVOKED LICENSE, A DEALER'S LICENSE, MECHANIC'S LICENSE, OR ANY OTHER LICENSE ISSUED BY THE DIVISION EXCEPT FOR A DRIVERS LICENSE UNLESS IT IS BEING RESTORED AFTER A REVOCATION.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

**"§ 20-17.8A. Tampering with ignition interlock systems.**

Any person who tampers with, circumvents, or attempts to circumvent an ignition interlock device required to be installed on a motor vehicle pursuant to judicial order, statute, or as may be otherwise required as a condition for an individual to operate a motor vehicle, for the purpose of avoiding or altering testing on the ignition interlock device in the operation or attempted operation of a vehicle, or altering the testing results received or results in the process of being received on the ignition interlock device, is guilty of a Class 1 misdemeanor. Each act of tampering, circumvention, or attempted circumvention under this statute shall constitute a separate violation."

**SECTION 2.** G.S. 20-7(n) reads as rewritten:

"(n) Format. – A drivers license issued by the Division must be tamperproof and must contain all of the following information:

- (1) An identification of this State as the issuer of the license.
- (2) The license holder's full name.
- (3) The license holder's residence address.
- (4) A color photograph, or a properly applied laser engraved picture on polycarbonate material, of the license holder, taken by the Division.
- (5) A physical description of the license holder, including sex, height, eye color, and hair color.
- (6) The license holder's date of birth.
- (7) An identifying number for the license holder assigned by the Division. The identifying number may not be the license holder's social security number.
- (8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply.

- (9) The license holder's signature.
- (10) The date the license was issued and the date the license expires.

~~In taking photographs of license holders, the Division must distinguish between license holders who are less than 21 years old and license holders who are at least 21 years old by using different color backgrounds or borders for each group. The Division shall determine the different colors to be used. The Commissioner shall ensure that applicants 21 years old or older are issued drivers licenses and special identification cards that are printed in a horizontal format. The Commissioner shall ensure that applicants under the age of 21 are issued drivers licenses and special identification cards that are printed in a vertical format, that distinguishes them from the horizontal format, for ease of identification of individuals under age 21 by members of industries that regulate controlled products that are sale restricted by age and law enforcement officers enforcing these laws.~~

At the request of an applicant for a drivers license, a license issued to the applicant must contain the applicant's race."

**SECTION 3. G.S. 20-11(a) reads as rewritten:**

"(a) Process. – Safe driving requires instruction in driving and experience. To ensure that a person who is less than 18 years old has both instruction and experience before obtaining a drivers license, driving privileges are granted first on a limited basis and are then expanded in accordance with the following process:

- (1) Level 1. – Driving with a limited learner's permit.
- (2) Level 2. – Driving with a limited provisional license.
- (3) Level 3. – Driving with a full provisional license.

A permit or license issued under this section must ~~have a color background or border that indicates~~ indicate the level of driving privileges granted by the permit or license."

**SECTION 4. G.S. 20-30 reads as rewritten:**

**"§ 20-30. Violations of ~~license or~~license, learner's permit-permit, or special identification card provisions.**

It shall be unlawful for any person to commit any of the following acts:

- (1) To display or cause to be displayed or to have in possession a driver's ~~license or~~license, learner's permit, or special identification card, knowing the same to be fictitious or to have been canceled, revoked, suspended or altered.
- (2) To counterfeit, sell, lend to, or knowingly permit the use of, by one not entitled thereto, a driver's ~~license or~~license, learner's permit-permit, or special identification card.
- (3) To display or to represent as one's own a ~~license or~~drivers license, learner's permit-permit, or special identification card not issued to the person so displaying same.
- (4) To fail or refuse to surrender to the Division upon demand any driver's ~~license or~~license, learner's permit-permit, or special identification card that has been suspended, canceled or revoked as provided by law.
- (5) To use a false or fictitious name or give a false or fictitious address in any application for a driver's ~~license or~~license, learner's permit, or special identification card, or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application, or for any person to procure, or knowingly permit or allow another to commit any of the foregoing acts. Any ~~license or~~license, learner's permit-permit, or special identification card procured as aforesaid shall be void from the issuance thereof, and any moneys paid therefor shall be forfeited to the State. Any person violating the provisions of this subdivision shall be guilty of a Class 1 misdemeanor.
- (6) To make a color photocopy or otherwise make a color reproduction of a drivers license, learner's permit, or special identification card which has been

- color-photocopied or otherwise reproduced in color, unless such color photocopy or other color reproduction was authorized by the Commissioner. It shall be lawful to make a black and white photocopy of a drivers license, learner's permit, or special identification card or otherwise make a black and white reproduction of a drivers license, learner's permit, or special identification card.
- (7) To sell or offer for sale any reproduction or facsimile or simulation of a driver's ~~license or license~~, learner's ~~permit-permit~~, or special identification card. The provisions of this subdivision shall not apply to agents or employees of the Division while acting in the course and scope of their employment. Any person, firm or corporation violating the provisions of this subsection shall be guilty of a Class I felony.
- (8) To possess more than one commercial drivers license or to possess a commercial drivers license and a regular drivers license. Any commercial drivers license other than the one most recently issued is subject to immediate seizure by any law enforcement officer or judicial official. Any regular drivers license possessed at the same time as a commercial drivers license is subject to immediate seizure by any law enforcement officer or judicial official.
- (9) To present, display, or use a drivers ~~license or license~~, learner's ~~permit-permit~~, or special identification card that contains a false or fictitious name in the commission or attempted commission of a felony. Any person violating the provisions of this subdivision shall be guilty of a Class I felony."

**SECTION 5.** Article 4 of Chapter 114 of the General Statutes is amended by adding a new section to read:

**§ 114-19.31. Criminal history record checks of applicants for a dealer's license, a mechanic's license, and all other licenses issued by the Division of Motor Vehicles.**

The Department of Justice may provide to the Division of Motor Vehicles, from the State and National Repositories of Criminal Histories, the criminal history record of any applicant for licensure under Chapter 20 of the General Statutes, including, but not limited to, a restoration of a revoked driving privilege, a nonrenewal of a dealer's license, a mechanic's inspection license, or a station inspection license, as dictated by the licensing guidelines for each application under Chapter 20 of the General Statutes. The provisions of this section shall not apply to (i) an applicant for a drivers license, unless the application is for a restoration of a drivers license that has been revoked; (ii) an applicant for renewal of a dealer's license, a mechanic's inspection license, or a station inspection license; (iii) a license application for an additional or new location made by an individual or entity owned or operated by an existing licensee; or (iv) a manufacturer's license. Along with the request, the Division shall provide to the Department of Justice the fingerprints of the applicant, a form signed by the applicant consenting to the criminal history record check and use of fingerprints, other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The applicant'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 Division 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 history record check under this section. The fee shall not exceed the actual cost of locating, editing, researching, and retrieving the information. Fees and other costs incurred by the Division under this statute may be charged to the applicant."

**SECTION 6.** Sections 1 and 4 of this act become effective December 1, 2011, and apply to offenses committed on or after that date. Sections 2, 3, and 5 of this act become effective December 1, 2011, and apply to licenses issued on or after that date. The remainder of this act becomes effective December 1, 2011. Prosecutions for offenses committed before the effective date of this act are not

abated or affected by this act, and the statutes that would be applicable but for this act remain applicable to those prosecutions.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

S

1

**SENATE BILL 555**

Short Title: Study Modernization of Banking Laws. (Public)

Sponsors: Senator Brown.

Referred to: Commerce.

April 12, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE JOINT LEGISLATIVE STUDY COMMISSION ON THE  
3 MODERNIZATION OF NORTH CAROLINA BANKING LAWS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** There is created the Joint Legislative Study Commission on the  
6 Modernization of North Carolina Banking Laws. The purpose of the Commission is to  
7 determine whether and to what extent the North Carolina Banking Laws need to be updated.

8 **SECTION 2.** The Commission shall consist of 14 members as follows:

- 9 (1) Five members of the House of Representatives appointed by the Speaker of  
10 the House of Representatives.  
11 (2) Five members of the Senate appointed by the President Pro Tempore of the  
12 Senate.  
13 (3) One member representing a State-chartered bank and one member of a  
14 consumer advocacy organization, each appointed by the Speaker of the  
15 House of Representatives.  
16 (4) One member representing a State-chartered bank and one member of a  
17 consumer advocacy organization, each appointed by the President Pro  
18 Tempore of the Senate.

19 **SECTION 3.** The Commission shall have two cochairs, one designated by the  
20 Speaker of the House of Representatives and one designated by the President Pro Tempore of  
21 the Senate from among their respective appointees. The Commission shall meet upon the call  
22 of the cochairs. Any vacancy on the Commission shall be filled by the original appointing  
23 authority. A quorum of the Commission shall be a majority of its members.

24 **SECTION 4.** The Commission shall study any issue related to the Banking Laws  
25 of North Carolina that the Commission deems appropriate.

26 **SECTION 6.** Members of the Commission shall receive per diem, subsistence, and  
27 travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. The  
28 Commission, while in the discharge of its official duties, may exercise all powers provided for  
29 under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the  
30 Legislative Building or the Legislative Office Building.

31 With approval of the Legislative Services Commission, the Legislative Services  
32 Officer shall assign professional staff to assist the Commission in its work. The House of  
33 Representatives' and the Senate's Directors of Legislative Assistants shall assign clerical staff to  
34 the Commission, and the expenses relating to the clerical employees shall be borne by the  
35 Commission. The Commission may contract for professional, clerical, or consultant services as  
36 provided by G.S. 120-32.02. If the Commission hires a consultant, the consultant shall not be a  
37 State employee or a person currently under contract with the State to provide services.



1 All State departments and agencies and local governments and their subdivisions  
2 shall furnish the Commission with any information in their possession or available to them.

3 **SECTION 7.** The Commissioner of Banks shall use up to twenty-five thousand  
4 dollars (\$25,000) of the funds available to the State Banking Commission for the 2011-2012  
5 fiscal year to fund the study authorized by this act.

6 **SECTION 8.** The Commission shall report the results of its study and its  
7 recommendations, including any proposed legislative changes, to the 2012 Regular Session of  
8 the 2011 General Assembly. The Commission shall terminate on May 1, 2012, or upon the  
9 filing of its final report, whichever occurs first.

10 **SECTION 9.** This act is effective when it becomes law.

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Friday, June 17, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	<b>555</b>	Study Modernization of Banking Laws.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.(CS #2)	<b>761</b>	Ignition Interlock Systems/Record Checks.	
		Sequential Referral:	None
		Recommended Referral:	None

**TOTAL REPORTED: 2**

**Committee Clerk Comments:**

HB 761 Ignition Interlock Systems/Record Checks	Sen. Brown
SB 555 Study Modernization of Banking Laws	Sen. Apodaca

MINUTES

RULES AND OPERATIONS OF THE SENATE

July 25, 2011

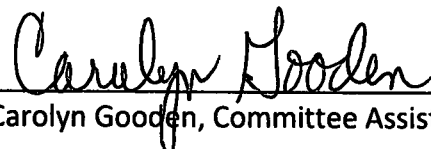
The Committee on Rules and Operations of the Senate met on July 25, 2011 at 3:10 P.M. in room 1027 of the Legislative Building. Twelve members of the committee were present. Senator Apodaca presided.

Senator Apodaca informed the committee that this meeting was to replace a vacancy for the State Board of Community Colleges. The nominee was Edward Lynn Raye who was sponsored by Senator Tucker.

Senator Brock made a motion that this nominee be given approval for the vacancy. Motion carried.

The meeting adjourned at 3:30 P.M.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant





NORTH CAROLINA GENERAL ASSEMBLY  
NORTH CAROLINA SENATE  
RALEIGH 27601-2808

To: Senator Tom Apodaca, Chair, Senate Rules Committee

From: Patsy Pierce, Ph.D., Legislative Analyst

Date: July 25, 2011

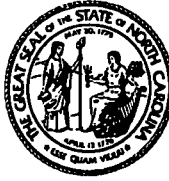
Re: Legal Qualifications of Candidates for Nomination to State Board of Community Colleges

---

The following is a list of the Senate nominees for the State Board of Community Colleges vacancy election. One nomination was submitted. I have reviewed the application that was submitted and indicated where the nominee has any statutory disabilities. My opinion as to the nominee's statutory disability is based solely upon the information provided in the nominee's application. The nominee has certified that the information provided in the application is accurate.

Nominee	Sponsor	Statutory Disability
Edward Lynn Raye	Senator Tucker	Yes*

\*Mr. Raye is on the Board of Trustees for South Piedmont Community College. He has indicated that he will resign this position if elected to the State Board of Community Colleges.



## STATE ETHICS COMMISSION

1324 MAIL SERVICE CENTER  
RALEIGH, NC 27699-1324  
WWW.ETHICSCOMMISSION.NC.GOV

ROBERT L. FARMER  
CHAIRMAN

PERRY Y. NEWSON  
EXECUTIVE DIRECTOR

July 19, 2011

The Honorable Tom Apodaca  
Chair, Senate Rules Committee  
300 N. Salisbury Street, Room 627  
Raleigh, NC 27603-5925

*Via e-mail*

**Re: Statement of Economic Interest for Potential Member of the State Board of  
Community Colleges**

Dear Senator Apodaca:

I am in receipt of Mr. E. Lynn Raye's 2011 Statement of Economic Interest as a potential member of the State Board of Community Colleges ("the Board"). I have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S.") also known as the State Government Ethics Act ("SGEA" or "the Act").

I did not find an actual conflict of interest or the potential for conflict of interest.

The State Board of Community Colleges implements Chapter 115D of the General Statutes, which provides for the establishment, organization, and administration of a statewide system of educational institutions in the form of two-year community colleges. Among other things, the Board recommends the establishment of community colleges after determining that an educational need exists within a proposed administrative area; approves the expenditure of any State funds for capital improvements of existing institutions; develops appropriate criteria and standards to regulate the addition and operation of college transfer programs to institutions; and adopts and executes such policies, regulations, and standards concerning the establishment, administration, and operation of institutions as the Board deems necessary to insure the quality of educational programs, to promote the systematic meeting of educational needs of the State, and to provide for the equitable distribution of State and federal funds to the several institutions.

The Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions if the public servant knows the public servant or a person with which the public servant is associated may incur a reasonably foreseeable financial benefit from the matter under consideration.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the

The Honorable Tom Apodaca

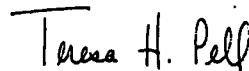
July 19, 2011

Page 2 of 2

public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

If you have any questions about any of the foregoing, please do not hesitate to give us a call.

Sincerely,

A handwritten signature in black ink that reads "Teresa H. Pell". The signature is written in a cursive style with a horizontal line above the first name.

Teresa H. Pell  
SEI Attorney

THP:bc

cc: Mr. E. Lynn Raye

# Edward Lynn Raye

Post Office Box 400, Marshville, NC 28103

704-233-4225

Co-founded Commercial Piping & Fabricating, Inc., in 1977. Continues to serve as chief executive officer, He is also owner/operator of Twin Oaks Farm.

Married to Sharon Tadlock Raye. They have three children: Edward Lynn Raye II and twins Lesley Raye and Lisa Raye Tarlton. They have three grandchildren: Edward Lynn (Trey) Raye III, Joshua Luke Raye and Olivia Beth Tarlton.

Lynn is a graduate of Forest Hills High School and the American Leadership Forum.

He is a member of Deep Springs Baptist Church in Peachland. He has served as a Sunday school teacher, church treasurer, Deacon Board, a member of the church finance and building committees, and is a member of the choir.

## Community Involvement:

- Member and former chair of the Board of Trustees, South Piedmont Community College.
- Member of the board of Directors Healthquest.
- Former member and chair of the Board of Trustees, Anson Community College.
- Branch Banking & Trust Board of Directors.
- President, Rolling Hills Country Club.
- Founder of the New Century Scholars program in Anson and Union counties.
- Member, Board of Directors, Union County Chamber of Commerce.
- Member, Board of Directors, Union County Community Arts Council.
- Member and former chair, Union County Job Ready Partnership.
- Member, Union Regional Medical Center Foundation Board.
- Former Member, Union Regional Medical Center Board of Trustees.
- Commercial Division Chair, United Way of Union County.
- Former Little League Baseball Coach.
- Former President, Marshville Jaycees.
- Former member, Union County Chamber of Commerce Industrial Division.
- Former Commissioner, Union County Midget Football League.
- Former member, east Union Middle School Advisory Board.
- Former member, Union County Board of Education Advisory Council.
- Past Member, Beaver Dam Masonic Lodge No. 276
- Gideon
- Former director, Allen's Crossroads Volunteer Fire Department.

## Honors:

- 2004 Union County Man of the Year
- 2001 Citizen of the Year
- 1998 Union County Entrepreneur of the Year
- Listed in "Who's Who Worldwide"
- The Sharon T. and E. Lynn Raye Boardroom on South Piedmont Community College's L.L. Polk Campus is named in his honor
- Inducted into the Union County Chamber of Commerce Hall of Fame.

~~MAR 15~~ 2011

July 19

## MINUTES

### RULES AND OPERATIONS OF THE SENATE

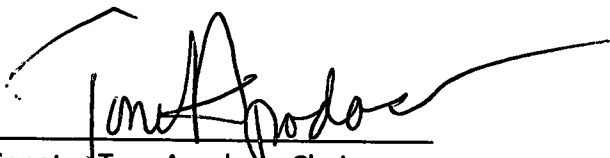
July 28, 2011

The Committee on Rules and Operations of the Senate met on July 28, 2011 at 9:00 A.M. in room 1027 of the Legislative Building. Eleven members of the committee were present. Senator Apodaca presided.

**HOUSE BILL 32 – Electoral Freedom Act of 2011** – Representative Bradley explained the bill. Senator Brunstetter made a motion for a favorable report with a serial referral to Judiciary I. Motion carried.

**HOUSE BILL 389 – Modify 2011 Appointments Bill** - Senator Brunstetter, Vice Chair, chaired and presented a Proposed Committee Substitute to House Bill 389. Senator Jackson moved to adopt the PCS. Motion carried. Kory Goldsmith, Staff Attorney, explained the bill. Senator Apodaca sent forth an amendment and moved for adoption. Motion carried. Senator Stein moved for a favorable report to the PCS as amended. Motion carried.

The meeting adjourned at 12:45 P.M.



\_\_\_\_\_  
Senator Tom Apodaca, Chairman



\_\_\_\_\_  
Carolyn Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 32  
Committee Substitute Favorable 6/3/11

Short Title: Electoral Freedom Act of 2011.

(Public)

Sponsors:

Referred to:

February 3, 2011

A BILL TO BE ENTITLED

1  
2 AN ACT TO AMEND THE STATUTORY REQUIREMENT FOR A POLITICAL PARTY  
3 TO MAINTAIN BALLOT ELIGIBILITY; TO PROVIDE THAT THE RESULTS OF  
4 PRIMARIES OF POLITICAL PARTIES WITH LESS THAN TEN PERCENT OF THE  
5 REGISTERED VOTERS ARE DETERMINED BY A PLURALITY UNLESS THE  
6 PARTY CHOOSES TO NOMINATE BY CONVENTION; TO CHANGE THE  
7 DEFINITION OF A "POLITICAL PARTY" BY REDUCING THE NUMBER OF  
8 SIGNATURES REQUIRED FOR THE FORMATION OF A NEW POLITICAL PARTY;  
9 AND TO REDUCE THE NUMBER OF SIGNATURES REQUIRED FOR  
10 UNAFFILIATED CANDIDATES TO OBTAIN BALLOT ACCESS ELIGIBILITY.

11 The General Assembly of North Carolina enacts:

12 SECTION 1. G.S. 163-96(a) reads as rewritten:

13 "(a) Definition. – A political party within the meaning of the election laws of this State  
14 shall be ~~either:~~either of the following:

- 15 (1) Any group of voters which, at the last preceding general State election,  
16 polled for its candidate for Governor, for any other member of the Council  
17 of State for a full term of office, or for presidential electors, at least two  
18 percent (2%) one-fourth of one percent (.25%) of the entire vote cast in the  
19 State for Governor-Governor, for any other member of the Council of State,  
20 or for presidential electors; or electors, whichever vote count is less.
- 21 (2) Any group of voters ~~which shall~~who have filed with the State Board of  
22 Elections ~~petitions~~a petition for the formulation of a new political party  
23 which ~~are~~is signed by at least one-fourth of one percent (.25%) of the  
24 registered and qualified voters in this State equal in number to two percent  
25 (2%) of the total number of voters who voted in the most recent general  
26 election for Governor. State as of January 1 of the year of the petition. Also  
27 Of the signers, the petition must be signed by at least 200 must be registered  
28 voters from each of four-three congressional districts in North Carolina. To  
29 be effective, the petitioners must file their petitionsthe petition with the State  
30 Board of Elections before 12:00 noon on the first day of June preceding the  
31 day on which is to be held the first general State election in which the new  
32 political party desires to participate. The State Board of Elections shall  
33 forthwith determine the sufficiency of ~~petitions~~any petition for the  
34 formulation of a new political party filed with it and shall immediately  
35 communicate its determination to the State chairman of the proposed new  
36 political party."  
37

SECTION 2. G.S. 163-98 reads as rewritten:



1 **"§ 163-98. ~~General election participation~~ Participation by new political party~~certain~~**  
2 **political parties.**

3 (a) In the first general election following the date on which a new political party  
4 qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its  
5 candidates for national, State, congressional, and local offices printed on the official ballots  
6 upon paying a filing fee equal to that provided for candidates for the office in G.S. 163-107 or  
7 upon complying with the alternative available to candidates for the office in G.S. 163-107.1.

8 For the first general election following the date on which it qualifies under G.S. 163-96, a  
9 new political party shall select its candidates by party convention. Following adjournment of  
10 the nominating convention, but not later than the first day of July prior to the general election,  
11 the ~~president~~ presiding officer of the convention shall certify to the State Board of Elections the  
12 names of persons chosen in the convention as the new party's candidates in the ensuing general  
13 election. Any candidate nominated by a new party shall be affiliated with the party at the time  
14 of certification to the State Board of Elections. The requirement of affiliation with the party  
15 will be met if the candidate submits at or before the time of certification as a candidate an  
16 application to change party affiliation to that party. The State Board of Elections shall print  
17 names thus certified on the appropriate ballots as the nominees of the new party. The State  
18 Board of Elections shall send to each county board of elections the list of any new party  
19 candidates so that the county board can add those names to the appropriate ballot.

20 (b) A political party with less than ten percent (10%) of the registered voters in this  
21 State is not subject to the Primary Act, Article 10 of this Chapter (other than as provided by  
22 subsection (d) of this section), if, after approval of its State convention or State executive  
23 committee, it notifies the State Board of its action before July 1 of an odd-numbered year. The  
24 exemption shall remain in effect unless revoked by the State convention or State executive  
25 committee, and such revocation shall become effective beginning in the next even-numbered  
26 year after July 1 of the year the political party notifies the State Board.

27 (c) A political party electing under subsection (b) of this section to be exempt from  
28 Article 10 of this Chapter shall select its candidates by party convention. Following  
29 adjournment of the nominating convention, but not later than the first day of July prior to the  
30 general election, the presiding officer of the convention shall certify to the State Board the  
31 names of persons chosen in the convention as the party's candidates in the ensuing general  
32 election. Any candidate nominated shall be affiliated with the party at the time of certification  
33 to the State Board. The requirement of affiliation with the party will be met if the candidate  
34 submits at or before the time of certification as a candidate an application to change party  
35 affiliation to that party. The State Board shall print names thus certified on the appropriate  
36 ballots as the nominees of the party. The State Board shall send to each county board of  
37 elections the list of any party candidates so that the county board can add those names to the  
38 appropriate ballot.

39 (d) Political parties exempt from Article 10 of this Chapter shall nonetheless be subject  
40 to G.S. 163-113 (withdrawal of nominee), 163-114 (filling vacancy in nomination after  
41 convention), and 163-115 (nominations when vacancies in office occur)."

42 **SECTION 3.** G.S. 163-111 is amended by adding a new subsection to read:

43 **"(g) No Second Primaries for Political Parties With Less Than Ten Percent of Registered**  
44 **Voters. – This section does not apply to political parties with less than ten percent (10%) of the**  
45 **registered voters in the State."**

46 **SECTION 4.** Article 10 of Chapter 163 of the General Statutes is amended by  
47 adding a new section to read:

48 **"§ 163-111.1. Determination of primary results for political parties.**

49 (a) This section applies only to political parties that, as of January 1 of the year that the  
50 primary election is to be held, have less than ten percent (10%) of the registered voters in the  
51 State.

1       **(b)**    Nominations in primary elections shall be determined as follows:

2           **(1)**    When more than one person is seeking election to a single office, the  
3               candidate who receives the highest number of votes shall be declared the  
4               nominee.

5           **(2)**    When more persons are seeking nomination to two or more offices  
6               (constituting a group) than there are offices to be filled, those candidates  
7               receiving the highest numbers of votes, equal in number to the number of  
8               offices to be filled, shall be declared the nominees.

9       **(c)**    When more than one person is seeking election to a single office, and two or more  
10       candidates receiving the highest number of votes each receive the same number of votes, the  
11       proper party executive committee shall, from among those candidates receiving the same  
12       number of votes, select the party nominee in accordance with G.S. 163-114.

13       **(d)**    When more persons are seeking nomination to two or more offices (constituting a  
14       group) than there are offices to be filled, and two or more candidates receiving the lowest  
15       number of votes necessary for nomination each receive the same number of votes, the proper  
16       party executive committee shall, from among those candidates receiving the same number of  
17       votes, select the party nominee in accordance with G.S. 163-114.

18       **(e)**    This section prevails over any local act."

19        **SECTION 5.** G.S. 163-122 reads as rewritten:

20       **"§ 163-122. Unaffiliated candidates nominated by petition.**

21       **(a)**    ~~Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. Any~~  
22       ~~qualified voter who seeks to have his name printed on the general election ballot as an~~  
23       ~~unaffiliated candidate shall:~~

24           **(1)**    ~~If the office is a statewide office, file written petitions with the State Board~~  
25               ~~of Elections supporting his candidacy for a specified office. These petitions~~  
26               ~~must be filed with the State Board of Elections on or before 12:00 noon on~~  
27               ~~the last Friday in June preceding the general election and must be signed by~~  
28               ~~qualified voters of the State equal in number to two percent (2%) of the total~~  
29               ~~number of voters who voted in the most recent general election for~~  
30               ~~Governor. Also, the petition must be signed by at least 200 registered voters~~  
31               ~~from each of four congressional districts in North Carolina. No later than~~  
32               ~~5:00 p.m. on the fifteenth day preceding the date the petitions are due to be~~  
33               ~~filed with the State Board of Elections, each petition shall be presented to the~~  
34               ~~chairman of the board of elections of the county in which the signatures~~  
35               ~~were obtained. Provided the petitions are timely submitted, the chairman~~  
36               ~~shall examine the names on the petition and place a check mark on the~~  
37               ~~petition by the name of each signer who is qualified and registered to vote in~~  
38               ~~his county and shall attach to the petition his signed certificate. Said~~  
39               ~~certificates shall state that the signatures on the petition have been checked~~  
40               ~~against the registration records and shall indicate the number of signers to be~~  
41               ~~qualified and registered to vote in his county. The chairman shall return each~~  
42               ~~petition, together with the certificate required in this section, to the person~~  
43               ~~who presented it to him for checking. Verification by the chairman of the~~  
44               ~~county board of elections shall be completed within two weeks from the date~~  
45               ~~such petitions are presented.~~

46           **(2)**    ~~If the office is a district office under the jurisdiction of the State Board of~~  
47               ~~Elections under G.S. 163-182.4(b), file written petitions with the State Board~~  
48               ~~of Elections supporting that voter's candidacy for a specified office. These~~  
49               ~~petitions must be filed with the State Board of Elections on or before 12:00~~  
50               ~~noon on the last Friday in June preceding the general election and must be~~  
51               ~~signed by qualified voters of the district equal in number to four percent~~



1           ~~(4%) of the total number of registered voters in the district as reflected by~~  
2           ~~the voter registration records of the State Board of Elections as of January 1~~  
3           ~~of the year in which the general election is to be held. Each petition shall be~~  
4           ~~presented to the chairman of the board of elections of the county in which~~  
5           ~~the signatures were obtained. The chairman shall examine the names on the~~  
6           ~~petition and the procedure for certification and deadline for submission to~~  
7           ~~the county board shall be the same as specified in (1) above.~~

8           (3) ~~If the office is a county office or a single county legislative district, file~~  
9           ~~written petitions with the chairman or director of the county board of~~  
10           ~~elections supporting his candidacy for a specified county office. These~~  
11           ~~petitions must be filed with the county board of elections on or before 12:00~~  
12           ~~noon on the last Friday in June preceding the general election and must be~~  
13           ~~signed by qualified voters of the county equal in number to four percent~~  
14           ~~(4%) of the total number of registered voters in the county as reflected by the~~  
15           ~~voter registration records of the State Board of Elections as of January 1 of~~  
16           ~~the year in which the general election is to be held, except if the office is for~~  
17           ~~a district consisting of less than the entire county and only the voters in that~~  
18           ~~district vote for that office, the petitions must be signed by qualified voters~~  
19           ~~of the district equal in number to four percent (4%) of the total number of~~  
20           ~~voters in the district according to the voter registration records of the State~~  
21           ~~Board of Elections as of January 1 of the year in which the general election~~  
22           ~~is to be held. Each petition shall be presented to the chairman or director of~~  
23           ~~the county board of elections. The chairman shall examine, or cause to be~~  
24           ~~examined, the names on the petition and the procedure for certification shall~~  
25           ~~be the same as specified in (1) above.~~

26           (4) ~~If the office is a partisan municipal office, file written petitions with the~~  
27           ~~chairman or director of the county board of elections in the county wherein~~  
28           ~~the municipality is located supporting his candidacy for a specified~~  
29           ~~municipal office. These petitions must be filed with the county board of~~  
30           ~~elections on or before the time and date specified in G.S. 163-296 and must~~  
31           ~~be signed by the number of qualified voters specified in G.S. 163-296. The~~  
32           ~~procedure for certification shall be the same as specified in (1) above.~~

33           ~~Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of~~  
34           ~~elections with which the petitions have been timely filed shall cause the unaffiliated candidate's~~  
35           ~~name to be printed on the general election ballots in accordance with Article 14A of this~~  
36           ~~Chapter.~~

37           ~~An individual whose name appeared on the ballot in a primary election preliminary to the~~  
38           ~~general election shall not be eligible to have his name placed on the general election ballot as~~  
39           ~~an unaffiliated candidate for the same office in that year.~~

40           ~~(a1) When and Where to File. – Any qualified voter who seeks to have that voter's name~~  
41           ~~printed on the general election ballot as an unaffiliated candidate shall:~~

42           ~~(1) File written petitions with the State Board of Elections supporting the voter's~~  
43           ~~candidacy for any statewide or district office comprised of more than one~~  
44           ~~county. These petitions must be filed with the State Board of Elections on or~~  
45           ~~before 12:00 noon on the last Friday in June preceding the general election.~~  
46           ~~No later than 5:00 P.M. on the fifteenth day preceding the date the petitions~~  
47           ~~are due to be filed with the State Board of Elections, each petition shall be~~  
48           ~~presented to the chairman of the board of elections of the county in which~~  
49           ~~the signatures were obtained. Provided the petitions are timely submitted, the~~  
50           ~~chairman shall examine the names on the petition and place a check mark on~~  
51           ~~the petition by the name of each signer who is qualified and registered to~~

1 vote in the signer's county and shall attach to the petition a signed certificate.  
2 Said certificates shall state that the signatures on the petition have been  
3 checked against the registration records and shall indicate the number of  
4 signers to be qualified and registered to vote in the signer's county. The  
5 chairman shall return each petition, together with the certificate required in  
6 this section, to the person who presented it for checking. Verification by the  
7 chairman of the county board of elections shall be completed within two  
8 weeks from the date such petitions are presented.

9 (2) File written petitions with the appropriate county board of elections  
10 supporting the voter's candidacy for any district office containing one or less  
11 than one county, county office, partisan municipal office, or any other office  
12 comprised of one or less than one county. These petitions must be filed with  
13 the county board of elections on or before 12:00 noon on the last Friday in  
14 June preceding the general election. Provided the petitions are timely  
15 submitted, the chairman shall examine, or cause to be examined, the names  
16 on the petition, and the procedure for certification shall be the same as  
17 specified in subdivision (1) of this subsection.

18 (a2) Number of Signatures Required. – Candidates seeking election to a partisan office  
19 as an unaffiliated candidate shall obtain no less than the following number of signatures for the  
20 office sought:

21 (1) For President of the United States as provided in G.S. 163-209, United  
22 States Senator, Governor, Lieutenant Governor, Secretary of State, Auditor,  
23 Treasurer, Superintendent of Public Instruction, Attorney General,  
24 Commissioner of Agriculture, Commissioner of Labor, Commissioner of  
25 Insurance, and any other statewide office: At least one-fourth of one percent  
26 (.25%) of the entire vote cast in the State for Governor or presidential  
27 electors, with at least 200 signatures from three congressional districts.

28 (2) For all other offices: At least one percent (1%) of the total number of  
29 registered voters eligible to vote for that office on January 1 of the year of  
30 the election.

31 (a3) Losing Candidate's Provision. – Upon compliance with the provisions of  
32 subsections (a1) and (a2) of this section, the board of elections with which the petitions have  
33 been timely filed shall cause the unaffiliated candidate's name to be printed on the general  
34 election ballots in accordance with Article 14A of this Chapter.

35 An individual whose name appeared on the ballot in a primary election preliminary to the  
36 general election shall not be eligible to have that individual's name placed on the general  
37 election ballot as an unaffiliated candidate for the same office in that year.

38 (b) Form of Petition. – Petitions requesting an unaffiliated candidate to be placed on the  
39 general election ballot shall contain on the heading of each page of the petition in bold print or  
40 in all capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN  
41 \_\_\_\_\_ COUNTY HEREBY PETITION ON BEHALF OF \_\_\_\_\_ AS AN  
42 UNAFFILIATED CANDIDATE FOR THE OFFICE OF \_\_\_\_\_ IN THE NEXT  
43 GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT  
44 CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE  
45 WITH THE PROVISIONS CONTAINED IN G.S. 163-122."

46 (c) This section does not apply to elections under Article 25 of this Chapter.

47 (d) When any person files a petition with a board of elections under this section, the  
48 board of elections shall, immediately upon receipt of the petition, inspect the registration  
49 records of the county and cancel the petition of any person who does not meet the constitutional  
50 or statutory qualifications for the office, including residency.

1 The board shall give notice of cancellation to any person whose petition has been cancelled  
2 under this subsection by mail or by having the notice served on that person by the sheriff and to  
3 any other candidate filing for the same office. A person whose petition has been cancelled or  
4 another candidate for the same office affected by a substantiation under this subsection may  
5 request a hearing on the issue of constitutional or statutory qualifications for the office. If the  
6 person requests a hearing, the hearing shall be conducted in accordance with Article 11B of  
7 Chapter 163 of the General Statutes.

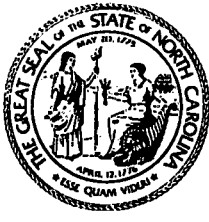
8 (e) Any candidate seeking to have that candidate's name printed on the general election  
9 ballot under this section shall pay a filing fee equal to that provided for candidates for the office  
10 in G.S. 163-107 or comply with the alternative available to candidates for the office in  
11 G.S. 163-107.1."

12 **SECTION 6.** G.S. 163-296 reads as rewritten:

13 **"§ 163-296. Nomination by petition.**

14 In cities conducting partisan elections, any qualified voter who seeks to have ~~his~~that voter's  
15 name printed on the regular municipal election ballot as an unaffiliated candidate ~~may~~shall do  
16 so in the manner provided in G.S. 163-122, ~~except that the petitions and affidavits shall be filed~~  
17 ~~not later than 12:00 noon on the Friday preceding the seventh Saturday before the election, and~~  
18 ~~the petitions shall be signed by a number of qualified voters of the municipality equal to at least~~  
19 ~~four percent (4%) of the whole number of voters qualified to vote in the municipal election~~  
20 ~~according to the voter registration records of the State Board of Elections as of January 1 of the~~  
21 ~~year in which the general municipal election is held. G.S. 163-122. A person~~An individual  
22 whose name appeared on the ballot in a primary election is not eligible to have ~~his~~that  
23 individual's name placed on the regular municipal election ballot as an unaffiliated candidate  
24 for the same office in that year. ~~The Board of Elections shall examine and verify the signatures~~  
25 ~~on the petition, and shall certify only the names of signers who are found to be qualified~~  
26 ~~registered voters in the municipality. Provided that in the case where a qualified voter seeks to~~  
27 ~~have his name printed on the regular municipal election ballot as an unaffiliated candidate for~~  
28 ~~election from an election district within the municipality, the petition shall be signed by four~~  
29 ~~percent (4%) of the voters qualified to vote for that office."~~

30 **SECTION 7.** This act becomes effective January 1, 2012, and applies to elections  
31 held on or after that date.



# HOUSE BILL 32: Electoral Freedom Act of 2011

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	July 26, 2011
<b>Introduced by:</b>	Reps. LaRoque, Bradley, Luebke, Farmer-Butterfield	<b>Prepared by:</b>	Kara McCraw* Committee Counsel
<b>Analysis of:</b>	Second Edition		

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**SUMMARY:** *The 2<sup>nd</sup> Edition of House Bill 32 would:*

- Lower threshold to qualify and maintain political party status in North Carolina from 2% to ¼ of 1% for both votes in preceding elections to maintain party status and petitions to qualify for recognition of new parties.
- Allow political parties with less than 10% registered voters to opt out of primaries and nominate by convention. Political parties with less than 10% registered voters would not be eligible for second primaries.
- Require political parties with less than 10% of registered voters opting to participate in primaries to declare a winner in a primary based on receipt of the highest number of votes rather than a substantial plurality of the votes.
- Lower the threshold for unaffiliated candidates for petitions from 2% of most recent Governor's race to ¼ of 1% of most recent Governor or Presidential race for statewide office, and from 4% to 1% of registered voters in that district for all other offices.

**CURRENT LAW:**

**Political parties:** Under G.S. 163-96 a group of voters is recognized as a political party if either:

- 1) That group received 2% of the vote for Governor or President in the most recent election. OR
- 2) That group has filed a petition with the State Board to form a new party with signatures from qualified and registered voters equal to 2% of the vote for Governor or President in the most recent election. Petitions must be submitted to the State Board of Election prior to noon on June 1 preceding the next general State election.

G.S. 163-98 provides for general election participation of a newly qualified political party but requires the party's candidates to be selected by nominating convention for the first general election after the new party's qualification.

**Statutory benefits of political parties:** Political parties receive certain access and privileges, including:

- Allows political parties access to schools and public building for political meetings. *G.S. 163-99.*
- Allows taxpayers to designate which political party may use \$3 tax check off in North Carolina Political Parties Financing Fund. *G.S. 105-159.1.*
- Permits party chair to recommend precinct officials. *G.S. 163-41.*
- Provides free copy of statewide computerized voter registration file to political party. *G.S. 163-82.13.*
- Places political party nominees prior to unaffiliated candidates on general ballot. *G.S. 163-156.5.*

**Primary Determination:** G.S. 163-111 requires that primary elections be determined by a substantial plurality, which requires a candidate receive more than 40% of the vote. If no candidate receives a substantial plurality, a second primary may be requested.

**Unaffiliated Candidates**

G.S. 163-122 permits qualified voters to have their name printed on the general election ballot by filing a petition with the appropriate board of elections by noon on the last Friday in July before the general election.

- **For Statewide office:** Petition must have signature of qualified voters equal to 2% of the vote for Governor in the most recent election, and must be signed by 200 voters from 4 Congressional districts.
- **For district office:** Petition must have signature of qualified voters of the district equal to 4% of the total number of registered voters in that district.

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- For county office or single county legislative district: Petition must have signature of qualified voters of the county equal to 4% of the total number of registered voters in that county.
- For partisan municipal office: Petition must have signature of qualified voters of the municipality equal to 4% of the total number of registered voters in that municipality (petition is due by noon on Friday before 7<sup>th</sup> Saturday before the election).

Individuals appearing on the primary ballot for the same office are not eligible as unaffiliated candidates for that office.

## **BILL ANALYSIS:**

**Section 1:** Requires that, to be recognized as a political party, a group must either:

- 1) Receive  $\frac{1}{4}$  of 1 % of the vote for that group's candidate in the previous election for Governor, President, or Council of State for a full term of office, whichever amount is less.
- 2) File a petition with the State Board of Elections signed by  $\frac{1}{4}$  of 1% of the registered voters in the State by noon on June 1 prior to general election.

**Section 2:** Allows new political parties with less than 10% of registered voters to elect to not be subject to Primary Act.

- Party must notify State Board it is opting out by July 1 of an odd-numbered year.
- Remains effective unless party opts to become subject to Primary Act effective the next even-numbered year after July 1 of that notification.
- Parties who opt to not be subject to the Primary Act must select candidates by convention and notify the State Board of candidates by July 1 prior to the general election.
- Parties opting out remain subject to portions of the Primary Act related to withdrawal of nominees, filling vacancies after convention, and nominations when vacancies in office occur.

**Section 3:** Parties with less than 10% registered voters are not eligible to hold second primaries.

**Section 4:** Parties with less than 10% registered voters must determine primary nominations based on candidate who receives highest number of votes (rather than a substantial plurality) if that party does not opt out of Article 10 of Chapter 163, Primaries.

## **Section 5:**

1. Requires voters seeking to be placed on the ballot as an unaffiliated candidate to file a petition with the appropriate board of elections by noon on the last Friday in June prior to the general election.
2. Petitions must contain the following number of signatures of registered voters:
  - President, Governor, US Senator, Council of State or other Statewide office:  $\frac{1}{4}$  of 1 % of the vote for most recent election for Governor or President, with at least 200 signatures from 3 Congressional districts.
  - All other offices: 1% of all registered voters eligible to vote for that office on January 1 of the election year.
3. Candidates who meet petition requirements must be printed on the general election ballot.
4. Individuals on the primary ballot for the same office are not eligible to be on the general ballot as an unaffiliated candidate.

**Section 6:** Requires unaffiliated candidates in municipal elections to follow general requirements for unaffiliated candidates in G.S. 163-122 and lowers petitions signature requirement from 4% to 1% of all registered voters eligible to vote for that office on January 1 of the election year.

**EFFECTIVE DATE:** The bill would become effective January 1, 2012 and apply to elections held on or after that date, but must receive preclearance under Section of the Voting Rights Act before being enforced.

**BACKGROUND:** The 2% threshold vote requirement to retain political party status in North Carolina was challenged in Libertarian Party v. State of North Carolina, 365 NC 41(2011). The NC Supreme Court held that the 2% requirement did not violate the North Carolina Constitution.

*\*This bill summary was substantially contributed to by Erika Churchill, House Elections Committee Council.  
H32-SMTC-51(e2) v2*



# FREE THE VOTE

NORTH CAROLINA

## BALLOT ACCESS LAW COMPARISONS BY STATE

All signatures requirements shown below are for the 2012 General Election, unless otherwise noted.

STATE	NEW PARTY	STATEWIDE	US CONGRESS	STATE SENATE	STATE HOUSE
Alabama	44,560	44,560	6,366 <sup>(1)</sup>	1,273 <sup>(1)</sup>	424 <sup>(1)</sup>
Alaska <sup>(2)</sup>	7,686	2,587	2,587	129 <sup>(1)</sup>	65 <sup>(1)</sup>
Arizona <sup>(2)</sup>	23,041	28,926 <sup>†</sup>			
Arkansas <sup>(2)</sup>	10,000	1,000/10,000 <sup>††</sup>	2,000		
California	100,952	172,859	9,784 <sup>(1)</sup>	12,964 <sup>(1)</sup>	6,482 <sup>(1)</sup>
Colorado	10,000	1,000	800	600	400
Connecticut <sup>(2)</sup>	No Procedure*	7,500			
Delaware	305 <sup>†</sup>	6,293 <sup>†</sup>	6,293 <sup>†</sup>	153 <sup>†</sup>	153 <sup>†</sup>
Florida	File Org. Paperwork*	112,174/0 <sup>††</sup>	0*	0*	0*
Georgia <sup>(2)</sup>	57,956	57,558	22,137 <sup>(1)</sup>	5,139 <sup>(1)</sup>	1,598 <sup>(1)</sup>
Hawaii <sup>(2)</sup>	691	4,536			
Idaho	13,102	1,000	500	50	50
Illinois <sup>(2)</sup>	No Procedure*	25,000	14,678 <sup>†</sup>	4,727 <sup>†</sup>	2,364 <sup>†</sup>
Indiana <sup>(2)</sup>	No Procedure*	34,195	3,799 <sup>(1)</sup>	683 <sup>(1)</sup>	341 <sup>(1)</sup>
Iowa <sup>(2)</sup>	No Procedure*	1,500	300	100	50
Kansas	16,776	5,000	5,000	1,706 <sup>(1)</sup>	546 <sup>(1)</sup>
Kentucky <sup>(2)</sup>	No Procedure*	5,000	400	400/100 <sup>**</sup>	100
Louisiana <sup>(2)</sup>	1,000 Affi. Voters	5,000	1,000	500	400
<sup>(2)</sup>	28,639	4,000	2,000	200	50
.....and	10,000	35,000 <sup>†</sup>			
Massachusetts <sup>(2)</sup>	40,000 <sup>†</sup>	10,000	2,000	300	150
Michigan	32,261	32,261 <sup>(1)</sup>	4,301 <sup>(1)</sup>	1,698 <sup>(1)</sup>	587 <sup>(1)</sup>
Minnesota <sup>(2)</sup>	105,352	2,000	1,000	500	500
Mississippi	No Procedure*	1,000	200	50	50
Missouri	10,000	10,000	4,268 <sup>(1)</sup>	1,105 <sup>(1)</sup>	230 <sup>(1) (approx)</sup>
Montana <sup>(2)</sup>	5,000	5,000	10,885	247 <sup>(1) (approx)</sup>	120 <sup>(1) (approx)</sup>
Nebraska	4,880	2,500	2,000	Non-Partisan	Non-Partisan
Nevada	7,013	7,013/250 <sup>***</sup>	100	100	100
New Hampshire <sup>(2)</sup>	13,698	3,000	1,500	750	150
New Jersey <sup>(2)</sup>	No Procedure*	800	100	100	100
New Mexico	3,014	18,053	6,028 <sup>(1)</sup>	258 <sup>(1)</sup>	258 <sup>(1)</sup>
New York <sup>(2)</sup>	No Procedure*	18,053	3,500	3,000	1,500
North Carolina	85,379	85,379	18,719 <sup>††(1)</sup>	4,867 <sup>††(1)</sup>	2,028 <sup>††(1)</sup>
North Dakota <sup>(2)</sup>	7,000	4,000/1,000 <sup>****</sup>	1,000	300	300
Ohio	No Procedure*	5,000	2,140 <sup>(1)</sup>	1,167 <sup>(1)</sup>	389 <sup>(1)</sup>
Oklahoma	51,739	43,890	0	0	0
Oregon	21,804	18,279	3,656 <sup>(1)</sup>	609 <sup>(1)</sup>	305 <sup>(1)</sup>
<sup>(2)</sup>	No Procedure*	25,000 <sup>†</sup>			
.....Island <sup>(2)</sup>	17,115	1,000	500	100	50
South Carolina	10,000	10,000	10,000	2,771 <sup>††(1)</sup>	1,059 <sup>††(1)</sup>

South Dakota	7,928	3,171	3,171	91 <sup>(1)</sup>	81 <sup>(1)</sup>
Tennessee	No Procedure*	25 <sup>‡</sup>	25	25	25
Texas	49,729	80,778	500	500	500
Utah <sup>(2)</sup>	2,000	1,000	300	300	300
Vermont <sup>(2)</sup>	Be Organized	1,000	500	100	100
Virginia <sup>(2)</sup>	No Procedure*	10,000	1,000	250	125
Washington <sup>(2)</sup>	No Procedure*	1,000	0	100	100
West Virginia <sup>(2)</sup>	No Procedure*	7,135	2,378 <sup>(1)</sup>	714 <sup>(1)</sup>	123 <sup>(1)</sup>
Wisconsin <sup>(2)</sup>	10,000	2,000	1,000	400	200
Wyoming	3,739	3,739	3,739	125 <sup>(1)</sup>	62 <sup>(1)</sup>

*Arizona, Connecticut, Hawaii, Maryland and Pennsylvania's signature requirements for US Congressional, State Senate and State House will take more research, or are not ascertainable at this time.*

#### **FINDINGS:**

**- For State House:**

- o 42% of the States require 150 signatures or less
- o 70% of the States require 500 signatures or less

**- For State Senate:**

- o 46% of the States require 300 signatures or less
- o 64% of the States require 750 signatures or less

**- For US Congress:**

- o 40% of the States require 1,000 signatures or less
- o 72% of the States require 5,000 signatures or less

**- For Statewide Office:**

- o 52% of the States require 5,000 signatures or less
- o 68% of the States require 10,000 signatures or less

**- For New Political Parties:**

- o 68% of the States require 10,000 signatures or less (or some other type of requirement)
- o 76% of the States require 20,000 signatures or less (or some other type of requirement)

\* No signature requirement; political parties may gain access through an independent candidate who obtains a certain percentage of the vote or there is not method for a new political party to get on the ballot at this time or candidates can simply pay a filing fee.

\*\* State Senate districts covering more than one county or a part thereof require 400 signatures, and State Senate districts covering one county require 100 signatures.

\*\*\* Nevada requires independent candidates for President to gather signatures equal to 1% of the last vote for Congressional candidates in Nevada equaling 7,013 for 2012 with a later deadline to turn the signatures in, whereas Nevada requires only 250 signatures for all other statewide office and has a earlier deadline.

\*\*\*\* North Dakota requires independent candidates for President to gather at least 4,000 signatures but only requires 1,000 from independent candidates running for any other statewide office.

† 2010 Requirement or estimate of the 2012 requirement; legal requirement for 2012 not available until a later date.

\* TN requires 25 signatures from all unaffiliated candidates at all levels except for President, which TN requires 275 signatures.

†† The first number is the requirement for independent candidates for President while the second number is the requirements for other statewide offices..

<sup>(1)</sup> Requirement is an average; requirement is a percentage and varies depending on vote cast for a specific office or number of registered voters within the district. The actual number in any specific district may be greater or less than the average.

<sup>(2)</sup> Party candidates can avoid qualifying an entire new party because the state allows candidates who qualify as independent candidates to choose a Party label of their choice to display with their name on the ballot.



# **FREE THE VOTE**

\*\*\* NORTH CAROLINA \*\*\*

**10 Reasons Why North Carolina Needs the  
Electoral Freedom Act of 2011**  
Originally Proposed by Free the Vote NC

Free the Vote North Carolina believes our state needs the Electoral Reform Act of 2011 because North Carolina has some of the most restrictive ballot access laws in the United States. The statutory requirements contained in NCGS Chapter 163 deny citizens their right to vote for candidates of their choice, their right to run for office, and their right to freedom of association to form alternative political parties to place candidates on the ballot.

1. North Carolina election law violates the 1st Amendment to the U.S. Constitution because it restricts the ability of voters to exercise their right to free speech and their right to petition for redress of grievance through the electoral process; first, by limiting their ability to vote for candidates of their choice, and; second by restricting their ability to run for office themselves.
2. North Carolina election law violates the 14th Amendment to the U.S. Constitution, as well as Article I Section 19 of the state constitution, by denying equal protection of the law to alternative political parties and unaffiliated candidates. State law requires unaffiliated candidates for district and local offices to obtain proportionally more than double the number of signatures a new political party or unaffiliated statewide candidate are required to obtain to gain access to the ballot.
3. North Carolina requires new political parties to obtain more than 85,000 signatures for ballot access certification, an excessive and unreasonable requirement that is higher than every state in the Union other than California.
4. Two-thirds (33) of all states require 10,000 or fewer signatures for a new political party to obtain ballot access. Twenty-two of those thirty-three states require less than 5,000 signatures or some other simpler means for a party to be recognized by the state.
5. Nearly three-fourths of all states (36) require 10,000 or fewer signatures for independent statewide candidates to obtain access to the ballot. Twenty-nine of those require 5,000 or less, or some other simpler means (such as paying a filing fee) for a candidate to be listed on the ballot.
6. Requiring unaffiliated candidates for Congress to obtain more signatures than any other state in the nation other than Georgia is excessive and unreasonable when states such as Virginia only require 1,000 signatures, Tennessee only requires 25 and in Florida candidates only have to pay a filing fee. As a result of these restrictions, North Carolina has never had an unaffiliated candidate appear on the North Carolina election ballot since the institution of the state-printed ballot in 1901.
7. Write-in candidates currently are required to obtain up to 500 signatures to qualify to have votes for their candidacy counted, yet the candidate's name never appears on the ballot so most North Carolinians have no idea they can vote for that candidate. Nor do voters realize that if a write-in candidate does not obtain these signatures a vote for that candidate is not officially tallied. It is important to realize that of all the states in the Union which allow write-ins that only North Carolina and California require write-in candidates to obtain signature for their votes to be counted.
8. The state's assertion that lower signature requirements would result in a "cluttered ballot" is not supported by the U.S. Supreme Court or history. The Supreme Court ruled in *Williams v. Rhodes* (Page 393 U.S. 47) in 1968 that "the presence of eight candidacies cannot be said, in light of experience, to carry a significant danger of voter confusion." No state that required more 5,000 signatures for access to the ballot has ever seen more than eight candidates on its ballot for a statewide office, including NC. Kentucky and Virginia's requirement for State House is actually easier than that proposed in the Electoral Freedom Act, yet in the past ten years, neither has seen more than four candidates on the ballot for State House and Kentucky has never seen over three.
9. The largest number of candidates to have ever appeared on the North Carolina election ballot for a statewide office was six candidates for President in 1980, when the state required only 10,000 signatures for a political party to get on the ballot.
10. The state's claim that current North Carolina law is the least restrictive means for protecting the state interest is not borne out by history. For more than half a century, from 1929 to 1981, North Carolina required only 10,000 signatures for a new political party to obtain ballot access.





# FREE THE VOTE

\*\*\* NORTH CAROLINA \*\*\*

*State Comparisons & Purpose of the  
Electoral Freedom Act of 2011  
Originally Proposed by Free the Vote NC*

## WHAT DOES THE BILL DO

The Electoral Freedom Act of 2011 would significantly reduce the ballot access requirements in North Carolina for alternative political parties and unaffiliated candidates and align our state's election laws with a majority of other states.

1. Reduce the number of signatures a new political party needs to obtain ballot access to a from 2% of the last vote for Governor (over 85,000 signature for 2010 & 2012) to 0.25% of the registered voters (est. 16,000 signatures for 2012).
2. Changes the requirement for a new political party to retain ballot access from 2% of the vote cast for Governor or President in that election to 0.25% of the vote cast for Governor, and Council of State position for a full term (Secretary of State, Auditor, etc) or President.
3. Reduce the number of signatures that Statewide Unaffiliated Candidates would need for ballot access from 2% of the last vote for Governor (over 85,000 signature for 2010 & 2012) to 0.25% of the last vote for Governor or President, whichever is less (10,673 signature for 2012).
3. Reduce the number of signatures that Unaffiliated Candidates for all other offices (US Congress, state legislative districts, county office, etc.) would need for ballot access from 4% of the registered voters to 1% of the registered voters.
6. Alter NC's Primary Election law to ensure the cost of Primary Elections do not increase. It does such by having Party's with voter registrations of less than 10% choose to nominate their candidates by:
  - a. Party Convention, or
  - b. Public Primary, with winner determined by simple plurality vote (no runoffs).

*You may contact Rep. Stephen LaRoque (Primary Lead Sponsor) about the bill either by phone at 252-527-3399 or by e-mail at [Stephen.LaRoque@ncleg.net](mailto:Stephen.LaRoque@ncleg.net)*

*For further information visit Free the Vote North Carolina online at [www.FreetheVoteNC.com](http://www.FreetheVoteNC.com), e-mail us at [info@freethevote.nc.com](mailto:info@freethevote.nc.com) or call 828-729-4509.*

PAID FOR BY FREE THE VOTE NORTH CAROLINA

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## MOST CROWDED GENERAL ELECTION BALLOT FOR STATEWIDE OFFICE

State	No. of Candidates	Year	Requirement
Alabama	10 for president	1980	hold a convention
Alaska	9 for president	1992	2,035 signatures
Arizona	7 for president	1968	358 signatures
Arkansas	13 for president	1996	hold a convention
California	8 for president	1996	89,007 registrations
Colorado	16 for president	2008	pay \$500
Connecticut	7 for president	1996	7,500 signatures
Delaware	7 for president	2008	305 registrations
Dist. of Columbia	9 for president	1992	3,072 signatures
Florida	13 for president	2008	27 members to be pres. elector candidates
Georgia	5 for president	1936	hold a convention
Hawaii	7 for president	2000	602 signatures
Idaho	6 for president	2000	4,918 signatures
Illinois	12 for U.S. Senate	1926	1,000 signatures
Indiana	8 for president	1980	6,982 signatures
Iowa	14 for president	1992	1,000 signatures
Kansas	8 for president	1980	2,500 signatures
Kentucky	9 for president	1976	1,000 signatures
Louisiana	11 for president	1992	pay \$500
Maine	7 for president	1996	4,000 signatures
Maryland	6 for president	2008	10,000 signatures
Massachusetts	10 for Governor	1938	1,000 signatures
Michigan	10 for president	1984	file declaration of candidacy with court
Minnesota	11 for president	1996	2,000 signatures
Mississippi	8 for president	1992	1,000 signatures
Missouri	8 for president	1952	hold a convention
Montana	7 for president	2000	5,000 signatures
Nebraska	7 for president	2000	2,500 signatures
Nevada	8 for U.S. Senate	2010	250 signatures
New Hampshire	8 for president	1980	1,000 signatures
New Jersey	19 for Governor	1993	800 signatures
New Mexico	10 for president	1992	2,069 signatures
New York	12 lines for president	2000	15,000 signatures
North Carolina	6 for president	1980	10,000 signatures
North Dakota	11 for president	1976	300 signatures
Ohio	9 for president	1984	5,000 signatures
Oklahoma	8 for governor	1934	pay filing fee
Oregon	8 for president	1996	14,601 signatures
Pennsylvania	10 lines for Governor	1914	2,238 signatures
Rhode Island	10 for president	2000	1,000 signatures
South Carolina	7 for president	2000	10,000 signatures
South Dakota	6 for president	1996	3,117 signatures
Tennessee	16 for Governor	2010	25 signatures
Texas	6 for president	1996	43,963 signatures
Utah	10 for president	1992	300 signatures
Vermont	10 for president	2000	1,000 signatures
Virginia	7 for president	1936	file declaration of candidacy
Washington	12 for president	1976	100 attendees at a meeting
West Virginia	6 for president	2000	6,365 signatures
Wisconsin	11 for president	1976	2,000 signatures
Wyoming	6 for president	2000	3,485 signatures

Sheet1

	Requirement	98 (VA 99)	2000( VA 01)	2002 ( VA 03)	2004 ( VA 05)	2006 ( VA 07)	2008 ( VA)09)	2010	Most Candidates
Tennessee	25	3	3	4	4	4	3	4	4 ( 6 times in 693 races)
Florida	0	3	4	3	3	3	3	4	4 ( 2 times in 960 Races)
Virginia	100	4	4	3	3	3	4	NA	4(5 times in 600 races)
Kentucky	125	3	3	2	2	2	2	3	3 ( 4 times in 700 races)

**NORTH CAROLINA NC SENATE DISTRICT**  
**STATISTICS REPORT 01-01-2010**

DISTRICT	Total Voters	Number of Signatures
1	123,241	4,930
2	122,196	4,888
3	104,911	4,196
4	106,530	4,261
5	109,730	4,389
6	92,734	3,709
7	111,679	4,467
8	145,461	5,818
9	143,396	5,736
10	101,862	4,074
11	118,374	4,735
12	121,111	4,844
13	94,098	3,764
14	132,256	5,290
15	142,906	5,716
16	137,076	5,483
17	160,311	6,412
18	135,325	5,413
19	118,448	4,738
20	120,015	4,801
21	95,531	3,821
22	120,473	4,819
23	124,843	4,994
24	104,182	4,167
25	106,237	4,249
26	131,162	5,246
27	130,542	5,222
28	121,708	4,868
29	101,193	4,048
30	103,511	4,140

Average Sign. Required
4,867
Max. Sign.
6,412
Min. Sign.
3,709

DISTRICT	Number of Signatures with 1% Req.
1	1,232
2	1,222
3	1,049
4	1,065
5	1,097
6	927
7	1,117
8	1,455
9	1,434
10	1,019
11	1,184
12	1,211
13	941
14	1,323
15	1,429
16	1,371
17	1,603
18	1,353
19	1,184
20	1,200
21	955
22	1,205
23	1,248
24	1,042
25	1,062
26	1,312
27	1,305
28	1,217
29	1,012
30	1,035

Average Sign. Required
1,217
Max. Sign.
1,603
Min. Sign.
927

31	120,585	4,823
32	103,327	4,133
33	120,179	4,807
34	116,186	4,647
35	152,049	6,082
36	127,736	5,109
37	112,787	4,511
38	145,691	5,828
39	154,239	6,170
40	150,178	6,007
41	132,060	5,282
42	120,594	4,824
43	106,120	4,245
44	108,830	4,353
45	125,957	5,038
46	103,552	4,142
47	117,006	4,680
48	137,018	5,481
49	125,518	5,021
50	123,115	4,925
<b>Total</b>	<b>6,083,769</b>	<b>243,351</b>

31	1,206
32	1,033
33	1,202
34	1,162
35	1,520
36	1,277
37	1,128
38	1,457
39	1,542
40	1,502
41	1,321
42	1,206
43	1,061
44	1,088
45	1,260
46	1,036
47	1,170
48	1,370
49	1,255
50	1,231
<b>Total</b>	<b>60,838</b>

**NORTH CAROLINA CONGRESSIONAL DISTRICT  
STATISTICS REPORT 01-05-2010**

**4% Requirement**

DISTRICT	Total Voters	Number of Signatures
1	404,075	16,163
2	428,542	17,142
3	448,092	17,924
4	563,707	22,548
5	453,103	18,124
6	471,349	18,854
7	468,974	18,759
8	423,237	16,929
9	561,583	22,463
10	438,512	17,540
11	496,945	19,878
12	455,277	18,211
13	470,373	18,815
<b>Total</b>	<b>6,083,769</b>	<b>243,351</b>

**Average Sign. Required**

**18,719**

**Max. Sign.**

**22,548**

**Min. Sign.**

**16,163**

**1% Requirement**

DISTRICT	Number of Signatures with 1% Req.	Average Sign. Required
1	4,041	4,680
2	4,285	
3	4,481	<b>Max. Sign.</b>
4	5,637	<b>5,637</b>
5	4,531	
6	4,713	<b>Min. Sign.</b>
7	4,690	<b>4,041</b>
8	4,232	
9	5,616	
10	4,385	
11	4,969	
12	4,553	
13	4,704	
<b>Total</b>	<b>60,838</b>	

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

HOUSE BILL 389  
PROPOSED SENATE COMMITTEE SUBSTITUTE H389-PCS11257-LG-26

old  
version  
D

Short Title: Modify 2011 Appointments Bill.

(Public)

Sponsors:

Referred to:

March 16, 2011

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE  
RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND  
TO MAKE MODIFICATIONS TO APPOINTMENTS MADE IN THE 2011  
APPOINTMENTS BILL.

The General Assembly of North Carolina enacts:

**PART I. NEW APPOINTMENTS**

**SECTION 1.1.(a)** Cecil Boyd of Wake County and Dr. Joseph W. Koletar of Brunswick County are appointed to the North Carolina Global TransPark Authority for terms expiring on June 30, 2015.

**SECTION 1.1.(b)** Danny Barwick Smith of Lenoir County is appointed to the North Carolina Global TransPark Authority for a term expiring on June 30, 2013.

**SECTION 1.2.** Jimmy Ray "Jim" Lanier of Gaston County is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term expiring on June 30, 2014.

**SECTION 1.3.** Effective immediately, Steve Stroud of Rowan County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2013, to fill the unexpired term of Mark Jones.

**SECTION 1.4.** Effective April 15, 2011, William Ricky "Rick" Sells of Davie County is appointed to the North Carolina Respiratory Care Board for a term expiring on June 30, 2013, to fill the unexpired term of William C. "Bill" Kiger.

**SECTION 1.5.** Effective March 24, 2011, Crystal Dorene Combs Cody of Lincoln County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2013, to fill the unexpired term of Bill Stice.

**SECTION 1.6.(a)** Ashley Wallace of New Hanover County is appointed to the State Board of Proprietary Schools for a term expiring on December 30, 2017.

**SECTION 1.6.(b)** Thom Eastwood of Wake County is appointed to the State Board of Proprietary Schools for a term expiring on December 30, 2014.

**SECTION 1.7.** Edward Brent Lane of Wake County is appointed to the Department of Revenue Oversight Committee for a term expiring on June 30, 2015.

**SECTION 1.8.** Chris Herndon of Wake County is appointed to the Portal Project Review Committee to serve at the pleasure of the appointing authority.



\* H 3 8 9 - P C S 1 1 2 5 7 - L G - 2 6 \*

1           **SECTION 1.9.** The Honorable Thom Goolsby of New Hanover, the Honorable  
2 Harry Brown of Onslow, Senator Apodaca of Henderson, the Honorable Don East of Surry,  
3 and John C. Snyder III of Union County are appointed to the Study Commission on  
4 Consolidation of Judicial and Prosecutorial Districts.

5  
6 **PART II. MODIFICATIONS TO 2011 APPOINTMENTS**

7           **SECTION 2.1.** Section 1.4 of S.L. 2011-176 reads as rewritten:

8           "**SECTION 1.4.(a)** Effective immediately, Michelle Shaw of Harnett County and Noah H.  
9 Huffstetler III of Wake County are appointed to the Board of Trustees for the State Health  
10 Plan for Teachers and State Employees for ~~terms~~ a term expiring on ~~June 30, 2013~~ December  
11 31, 2011.

12           **SECTION 1.4.(b)** Effective January 1, 2012, Michelle Shaw of Harnett County is  
13 appointed to the the Board of Trustees for the State Health Plan for Teachers and State  
14 Employees for a term expiring on December 31, 2014.

15           **SECTION 1.4.(c)** Effective January 1, 2012, Noah H. Huffstetler III of Wake County is  
16 appointed to the Board of Trustees for the State Health Plan for Teachers and State Employees  
17 for a term expiring on December 31, 2015."

18           **SECTION 2.2.** Section 1.5 of S.L. 2011-176 reads as rewritten:

19           "**SECTION 1.5.** Sam Barefoot of Davidson County ~~and Dan Boyce of Wake County are~~  
20 appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System  
21 for ~~terms~~ a term expiring on June 30, 2013."

22           **SECTION 2.3.** Section 1.7 of S.L. 2011-176 reads as rewritten:

23           "**SECTION 1.7.** Maureen Hardin of Wake ~~County and~~ County, Julie Cardwell of  
24 Rockingham ~~County~~ County, and Dr. Kathryn Clark of Wake County are appointed to the  
25 Child Care Commission for terms expiring on June 30, 2013."

26           **SECTION 2.4.** Section 1.13 of S.L. 2011-176 reads as rewritten:

27           "**SECTION 1.13.** ~~David Rose of Nash County and Lige Daughtridg~~ Michael Lazzara of Onslow County and Kendall W. Jones of Carteret County are  
28 appointed to the North Carolina's Eastern Region Development Commission for terms expiring  
29 on June 30, 2015."

30           **SECTION 2.5.** Section 1.15 of S.L. 2011-176 reads as rewritten:

31           "**SECTION 1.15.** ~~The~~ Effective January 1, 2012, the Honorable Daniel Soucek of Watauga  
32 County is appointed to the Education Commission of the States for a term expiring on ~~June 30,~~  
33 ~~2013~~ December 31, 2013."

34           **SECTION 2.6.** Section 1.16 of S.L. 2011-176 reads as rewritten:

35           "**SECTION 1.16.** Effective January 1, 2011, Anna Boyle Roberts of Wake County is  
36 appointed to the e-NC Authority for a term expiring on ~~June 30, 2014~~ December 31, 2013."

37           **SECTION 2.7.** Section 1.19 of S.L. 2011-176 reads as rewritten:

38           "**SECTION 1.19.** Helen Brann of Person County, the Honorable Eric Mansfield of  
39 Cumberland County, the Honorable James Forrester of Gaston County, the Honorable William  
40 Purcell of Scotland County, Dr. David Y. Huang of Orange County, Glenn Martin of  
41 Rockingham County, Dr. Mike Patil of Orange County, and Shonda Corbett of Wake County  
42 are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms  
43 expiring on June 30, 2013."

44           **SECTION 2.8.** Section 1.20 of S.L. 2011-176 reads as rewritten:

45           "**SECTION 1.20.** ~~Susan Black of Alamance~~ David B. Goldberg of Wake County is  
46 appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2014."

47           **SECTION 2.9.** Section 1.30 and Section 1.34 of S.L. 2011-176 are repealed.

48           **SECTION 2.10.** Section 1.38 of S.L. 2011-176 reads as rewritten:  
49



1 "SECTION 1.38. Effective ~~January 1, 2011,~~ January 1, 2012, Greer Cawood of Forsyth  
2 County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring  
3 on ~~December 31, 2017.~~ January 1, 2018."

4 SECTION 2.11. Section 1.39 of S.L. 2011-176 reads as rewritten:

5 "SECTION 1.39. Dr. Fred Oliver of Watauga County is appointed to the North Carolina  
6 Nursing Scholars Commission for a term expiring on ~~June 30, 2012.~~ June 30, 2015."

7 SECTION 2.12. Section 1.41 of S.L. 2011-176 reads as rewritten:

8 "SECTION 1.41. ~~Jennifer Faceiolini of Sampson County and Tim Barnsbeck-Barnsback of~~  
9 ~~Burke County are~~ is appointed to the North Carolina Principal Fellows Commission for ~~terms a~~  
10 ~~term~~ expiring on June 30, 2015."

11 SECTION 2.13. Section 1.44 of S.L. 2011-176 reads as rewritten:

12 "SECTION 1.44. Effective August 1, 2011, Cindy Chandler of Mecklenburg County is  
13 appointed to the North Carolina Real Estate Commission for a term expiring on ~~June 30,~~  
14 ~~2014.~~ July 31, 2014."

15 SECTION 2.14. Section 1.45 of S.L. 2011-176 reads as rewritten:

16 "SECTION 1.45. ~~Steven Harper of Wake~~ Elizabeth Ann Bailey of Durham County is  
17 appointed to the North Carolina Recreational Therapy Licensure Board for a term expiring on  
18 June 30, 2014."

19 SECTION 2.15. Section 1.53 of S.L. 2011-176 reads as rewritten:

20 "SECTION 1.53. Hood Richardson of Beaufort County, ~~Keith Nixon of Chowan~~ J. Carlton  
21 "J.C." Cole of Perquimans County, and Owen Etheridge of Currituck County are appointed to  
22 the North Carolina's Northeast Commission for terms expiring on June 30, 2013."

23 SECTION 2.16. Section 1.55 of S.L. 2011-176 reads as rewritten:

24 "SECTION 1.55. ~~Joseph R. McLaughlin of Onslow County and~~ Graham Atkinson of Surry  
25 ~~County are~~ is appointed to the Public Officers and Employees Liability Insurance Commission  
26 for ~~terms a~~ term expiring on June 30, 2015."

27 SECTION 2.17. Section 1.62 of S.L. 2011-176 reads as rewritten:

28 "SECTION 1.62. ~~Billy Yew of Guilford~~ Chris Dickey of Cherokee County and Thomas  
29 Whitehead of New Hanover County are appointed to the Well Contractors Certification  
30 Commission for terms expiring on June 30, 2014."

31 SECTION 2.18. Section 3.1 of S.L. 2011-176 reads as rewritten:

32 "SECTION 3.1. Effective ~~January 1, 2012,~~ January 1, 2011, Martha Jane Eblen of  
33 Buncombe County, upon the recommendation of the Minority Leader of the Senate, and Sue  
34 Lynn Ledford of Wake County, upon the recommendation of the Majority Leader of the  
35 Senate, are appointed to the Board of Directors of the North Carolina Partnership for Children,  
36 Inc., for terms expiring on December 31, 2014."

### 37 38 PART III. EFFECTIVE DATE

39 SECTION 3. Unless otherwise provided, this act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 389

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

H389-ARC-50 [v.3]

Page 1 of 1

Comm. Sub. [YES]  
Amends Title [NO]  
H389-PCS11257-LG-26

Date \_\_\_\_\_, 2011

Senator \_\_\_\_\_

- 1 moves to amend the bill on page 2, by deleting lines 1-5;
- 2
- 3 and on page 2, lines 14 and 17, by deleting the phrase "December 31," where it appears in both
- 4 lines and substituting "June 30," in both lines.
- 5
- 6

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* H 3 8 9 - A R C - 5 0 - V - 3 \*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Tuesday, July 26, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

H.B.	<b>32</b>	Electoral Freedom Act of 2011.	
		Sequential Referral:	None
		Recommended Referral:	Judiciary I

**TOTAL REPORTED: 1**

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

*Dukes*  
Name of Committee

*7-26*  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
<i>Chris Valausi</i>	<i>Valausi Group, LLC</i>
<i>Susan Valausi</i>	<i>Nationwide</i>
<i>Tim KENT</i>	<i>NC Beer &amp; Wine</i>
<i>PAIGE WOPSHAM</i>	<i>LEGISLATIVE REPORTING SERVICE</i>
<i>David Starling</i>	<i>DST</i>
<i>SOLARI</i>	<i>DST</i>
<i>Sarah Preston</i>	<i>ACLU-NC</i>
<i>Krista Anderson</i>	<i>reDT</i>
<i>Matt Howell</i>	<i>NCSBA</i>
<i>Elise Bouchard</i>	<i>Sen. Bingham</i>
<i>Jonathan Kapper</i>	<i>NC Fire Enterprise Fund.</i>

VISITOR REGISTRATION SHEET

Rules

7/26/11

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rev. MARK CREECH	CAL
Robert PASchal	Young Men
Isaiah	NMPS
Cynthia Bennett	Christian Science Committee on Publications
Brian Irving	Free the Vote NC
Mitch Leonard	SEANC
Chuck Stone	SEANC
Michelle Frazier	MF+S
Sara Fender	IFNC
John Hardin	MF+S
Daniel Auburn	NCLM



MINUTES

RULES AND OPERATIONS OF THE SENATE

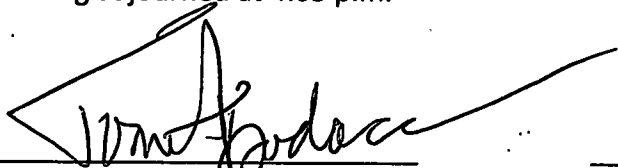
September 12, 2011

The Committee on Rules and Operations of the Senate met on September 12, 2011 at 4:00 p.m. in room 1027 of the Legislative Building. Ten members of the committee were present. Senator Apodaca presided.


**Senate Joint Resolution – 792 – A JOINT RESOLUTION FURTHER ADJOURNING THE 2011 REGULAR SESSION OF THE GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS THAT MAY BE CONSIDERED UPON RECONVENING.**

Senator Apodaca explained the bill. Senator Brock moved for a favorable report. Motion carried.

The meeting adjourned at 4:05 p.m.



\_\_\_\_\_  
Senator Tom Apodaca, Chairman



\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE JOINT RESOLUTION 792

---

Sponsors: Senator Apodaca.

---

Referred to: Rules and Operations of the Senate.

---

September 12, 2011

1 A JOINT RESOLUTION FURTHER ADJOURNING THE 2011 REGULAR SESSION OF  
2 THE GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS  
3 THAT MAY BE CONSIDERED UPON RECONVENING.

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

5 SECTION 1. When the Senate and the House of Representatives adjourn on  
6 Wednesday, September 14, 2011, they stand adjourned to reconvene on Monday, November 7,  
7 2011, at 12:00 noon.

8 SECTION 2. During the regular session that reconvenes on Monday, November 7,  
9 2011, only the following matters may be considered:

10 (1) Bills:

- 11 a. Revising the Senate districts and the apportionment of senators  
12 among those districts.  
13 b. Revising the Representative districts and the apportionment of  
14 representatives among those districts.  
15 c. Revising the districts for the election of members of the House of  
16 Representatives of the Congress of the United States and the  
17 apportionment of representatives among those districts.  
18 d. Bills responding to actions related to the Voting Rights Act of 1965.  
19 e. Bills responding to actions related to litigation concerning  
20 Congressional, State House, or State Senate districts.

21 (2) Bills returned by the Governor with her objections under Section 22 of  
22 Article II of the North Carolina Constitution, but solely for the purpose of  
23 considering overriding of the veto upon reconsideration of the bill.

24 (3) Any bills relating to election laws.

25 (4) Bills to ratify and make statutory conforming changes pursuant to a Tribal  
26 Compact negotiated by the Governor.

27 (5) Bills responding to natural disasters, including hurricanes.

28 (6) A joint resolution further adjourning the 2011 Regular Session to a date  
29 certain.

30 SECTION 3. This resolution is effective upon ratification.





**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Monday, September 12, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.JR.	792	Adjournment Resolution.	
		Sequential Referral:	None
		Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comments:

**VISITOR REGISTRATION SHEET**

*Rules*  
 Senate ~~Finance~~ Committee  
 Name of Committee

Sep 12, 2011  
~~May 18, 2011~~  
 Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM**

NAME	FIRM OR AGENCY AND ADDRESS
<i>Forrest Gillin</i>	<i>Commis Office</i>
<i>Kan BANSWISS</i>	<i>DEMUR</i>
<i>Michael Houser</i>	<i>NC D&amp;R</i>
<i>John McCall</i>	<i>Policy Group</i>
<i>Tom Mc</i>	<i>Hotel Mecca</i>
<i>Allison Waller</i>	<i>NMRS</i>
<i>Jon Carr</i>	<i>Jordan Price Law Firm</i>
<i>Andy Elle</i>	<i>NC Bank</i>
<i>Tom KENT</i>	<i>NC Beer &amp; Wine</i>
<i>Jake Cashion</i>	<i>NC Chamber</i>

**VISITOR REGISTRATION SHEET**

*Rules*  
Senate ~~Finance~~ Committee  
Name of Committee

Sep 12, 2011  
~~May 18, 2011~~  
Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO DeANNE MANGUM**

NAME	FIRM OR AGENCY AND ADDRESS
PAGE WORSHAM	LEGISLATIVE REPORTING SERVICE
Matthew Easley	Smith Anderson

MINUTES

RULES AND OPERATIONS OF THE SENATE

September 14, 2011

The Committee on Rules and Operations of the Senate met on September 14, 2011 at 9:30 a.m. in room 1027 of the Legislative Building. Eleven members of the committee were present. Senator Apodaca presided.

**Senate Joint Resolution – 792 – A JOINT RESOLUTION FURTHER ADJOURNING THE 2011 REGULAR SESSION OF THE GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS THAT MAY BE CONSIDERED UPON RECONVENING.**


Senator Apodaca brought the Proposed Committee Substitute before the committee. Senator Brown moved to adopt the PCS. Sen. Brock moved for a favorable report to the PCS. Motion carried.

The meeting adjourned at 9:45 a.m.



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Senator Tom Apodaca, Chairman



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Carolyn M. Gooden, Committee Assistant

Principal Clerk \_\_\_\_\_  
Reading Clerk \_\_\_\_\_

**SENATE**  
**NOTICE OF COMMITTEE MEETING**  
**AND**  
**BILL SPONSOR NOTICE**

The Senate Committee on **Rules and Operations of the Senate** will meet at the following time:

<b>DAY</b>	<b>DATE</b>	<b>TIME</b>	<b>ROOM</b>
Wednesday	September 14, 2011	9:30 AM	1027

The following will be considered:

<b>BILL NO.</b>	<b>SHORT TITLE</b>	<b>SPONSOR</b>
SJR 792	Adjournment Resolution.	Senator Apodaca

Senator Tom Apodaca, Chair

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

2

**SENATE JOINT RESOLUTION 792**  
**Rules and Operations of the Senate Committee Substitute Adopted 9/14/11**

---

Sponsors:

---

Referred to:

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September 12, 2011

1 A JOINT RESOLUTION FURTHER ADJOURNING THE 2011 REGULAR SESSION OF  
2 THE GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS  
3 THAT MAY BE CONSIDERED UPON RECONVENING.

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

5 **SECTION 1.** When the Senate and the House of Representatives adjourn on  
6 Wednesday, September 14, 2011, they stand adjourned to reconvene on Monday, November 7,  
7 2011, at 12:00 noon.

8 **SECTION 2.** During the regular session that reconvenes on Monday, November 7,  
9 2011, only the following matters may be considered:

10 (1) Bills:

- 11 a. Revising the Senate districts and the apportionment of senators
- 12 among those districts.
- 13 b. Revising the Representative districts and the apportionment of
- 14 representatives among those districts.
- 15 c. Revising the districts for the election of members of the House of
- 16 Representatives of the Congress of the United States and the
- 17 apportionment of representatives among those districts.
- 18 d. Bills responding to actions related to the Voting Rights Act of 1965.
- 19 e. Bills responding to actions related to litigation concerning
- 20 Congressional, State House, or State Senate districts.

21 (2) Bills returned by the Governor with her objections under Section 22. of  
22 Article II of the North Carolina Constitution, but solely for the purpose of  
23 considering overriding of the veto upon reconsideration of the bill.

24 (3) Any bills relating to election laws.

25 (4) Bills to ratify and make statutory conforming changes pursuant to a Tribal  
26 Compact negotiated by the Governor.

27 (5) Bills responding to natural disasters, including hurricanes.

28 (6) Bills in which the General Assembly makes an appointment or appointments  
29 to public office and which contain no other matter.

30 (7) Adoption of conference reports for bills which were in conference as of  
31 Wednesday, September 14, 2011.

32 (8) Local bills pending in the House Rules Committee on July 28, 2011.

33 (9) A bill to modify governance and management provisions for local  
34 management entities (LMEs).

35 (10) A joint resolution further adjourning the 2011 Regular Session to a date  
36 certain.

37 **SECTION 3.** This resolution is effective upon ratification.



\* 5 7 9 2 - V - 2 \*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Wednesday, September 14, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO JOINT RESOLUTION, BUT FAVORABLE AS TO COMMITTEE  
SUBSTITUTE JOINT RESOLUTION**

S.JR.	792	Adjournment Resolution.	
		Draft Number:	15196
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

# PAGES ATTENDING

COMMITTEE: Rules ROOM: 1027

DATE: 9-14 TIME: 9:30

**PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!!**

Page Name	Hometown	Sponsoring Senator
<sup>1</sup> Frank Yenney	Rocky Mount	Newton
<sup>2</sup> Luke McDowell	Lexington, NC	P. Berger
<sup>3</sup> Jessica East	Angier	East
<del>Peter Hutton</del>	<del>Stetson</del>	<del>Ward</del>
<sup>5</sup> Jordan Godwin	Fayetteville	Meredith
<sup>6</sup> Erin Bishop	Chapel-Hill, NC	Atwater
<del>7</del>	<del></del>	<del></del>
<del>8</del>	<del></del>	<del></del>
<del>9</del>	<del></del>	<del></del>
<del>10</del>	<del></del>	<del></del>

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.



MINUTES

RULES AND OPERATIONS OF THE SENATE

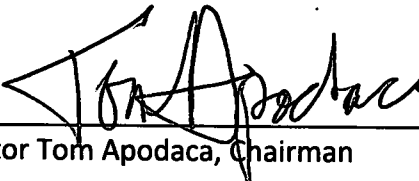
November 7, 2011

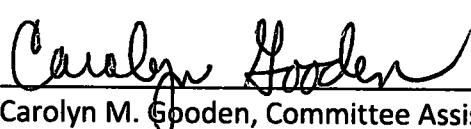
The Committee on Rules and Operations of the Senate met on November 7, 2011 at 6:30 p.m. around the desk in the Chamber. Eleven members of the committee were present. Senator Apodaca presided.

**Senate Joint Resolution – 792 – A JOINT RESOLUTION FURTHER ADJOURNING THE 2011 REGULAR SESSION OF THE GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS THAT MAY BE CONSIDERED UPON RECONVENING.**

Senator Apodaca presented the Adjournment Resolution. Sen. Brock sent forth an amendment and moved for adoption. Motion carried.

The meeting adjourned at 9:45 a.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011  
RATIFIED BILL**

**RESOLUTION 2011-11  
SENATE JOINT RESOLUTION 792**

A JOINT RESOLUTION FURTHER ADJOURNING THE 2011 REGULAR SESSION OF THE GENERAL ASSEMBLY TO A DATE CERTAIN AND LIMITING THE MATTERS THAT MAY BE CONSIDERED UPON RECONVENING.

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

**SECTION 1.** When the Senate and the House of Representatives adjourn on Wednesday, September 14, 2011, they stand adjourned to reconvene on Monday, November 7, 2011, at 12:00 noon.

**SECTION 2.** During the regular session that reconvenes on Monday, November 7, 2011, only the following matters may be considered:

- (1) Bills:
  - a. Revising the Senate districts and the apportionment of senators among those districts.
  - b. Revising the Representative districts and the apportionment of representatives among those districts.
  - c. Revising the districts for the election of members of the House of Representatives of the Congress of the United States and the apportionment of representatives among those districts.
  - d. Bills responding to actions related to the Voting Rights Act of 1965.
  - e. Bills responding to actions related to litigation concerning Congressional, State House, or State Senate districts.
- (2) Bills returned by the Governor with her objections under Section 22 of Article II of the North Carolina Constitution, but solely for the purpose of considering overriding of the veto upon reconsideration of the bill.
- (3) Any bills relating to election laws.
- (4) Bills to ratify and make statutory conforming changes pursuant to a Tribal Compact negotiated by the Governor.
- (5) Bills responding to natural disasters, including hurricanes.
- (6) Bills in which the General Assembly makes an appointment or appointments to public office and which contain no other matter.
- (7) Adoption of conference reports for bills which were in conference as of Wednesday, September 14, 2011.
- (8) Local bills pending in the House Rules Committee on July 28, 2011.
- (9) A bill to modify governance and management provisions for local management entities (LMEs).
- (10) A joint resolution further adjourning the 2011 Regular Session to a date certain.



**SECTION 3.** This resolution is effective upon ratification.  
In the General Assembly read three times and ratified this the 14<sup>th</sup> day of  
September, 2011.

---

Walter H. Dalton  
President of the Senate

---

Thom Tillis  
Speaker of the House of Representatives

N

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Monday, November 07, 2011

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE, AS AMENDED**

S.JR.	<del>793</del> 2	Adjournment Resolution.	
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

MINUTES

RULES AND OPERATIONS OF THE SENATE

January 4, 2012

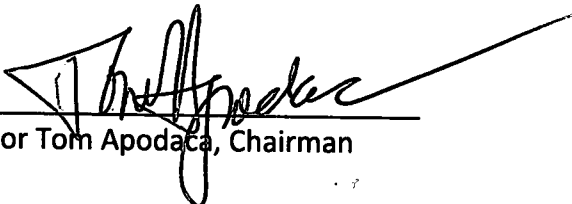
The Committee on Rules and Operations of the Senate met on Wednesday, January 4, 2012 at 2:00 p.m. in room 1027 of the Legislative Building. Eleven members of the committee were present.

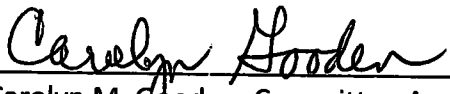
Senator Apodaca presided.

**Senate Joint Resolution – 794 – A JOINT RESOLUTION ADJOURNING THE RECONVENED SESSION.**

Senator Apodaca presented the Adjournment Resolution. Sen. Jackson moved for a favorable report to S.J.R. 794. Motion carried.

The meeting adjourned at 2:10 p.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE JOINT RESOLUTION 794

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Sponsors: Senator Apodaca.

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Referred to: Calendar January 4, 2012.

---

January 4, 2012

1 A JOINT RESOLUTION ADJOURNING THE RECONVENED SESSION.

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

3       **SECTION 1.** When the House of Representatives and the Senate, constituting the  
4 Reconvened 2011 Session of the 2011 General Assembly, adjourn, they stand adjourned to  
5 reconvene as provided in Resolution 2011-12.

6       **SECTION 2.** This resolution is effective upon ratification.



**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Wednesday, January 04, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.JR.	794	Adjourn Reconvened Session.	
		Sequential Referral:	None
		Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comments:

**RULES AND OPERATIONS OF THE SENATE**  
**MEMBERSHIP LIST**

**Senator Tom Apodaca, Chairman**

**Senator Pete Brunstetter, Vice Chair**

**Senator Brent Jackson, Vice Chair**

**Senator Dan Blue**

**Senator Andrew Brock**

**Senator Harry Brown**

**Senator Linda Garrou**

**Senator Kathy Harrington**

**Senator Fletcher Hartsell**

**Senator Ellie Kinnaird**

**Senator Eric Mansfield**

**Senator Wesley Meredith**

**Senator Martin Nesbitt**

**Senator Buck Newton**

**Senator Jean Preston**

**Senator Bill Rabon**

**Senator Josh Stein**



## MINUTES

### RULES AND OPERATIONS OF THE SENATE

May 16, 2012

The Committee on Rules and Operations of the Senate met on May 16, 2012 at 1:30 p.m. in room 1027 of the Legislative Building. Fifteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced the pages and sergeant-at-arms assisting with the committee.

**HOUSE BILL – 5- LOCAL DEANNEXATIONS** – Senator Brock moved to bring the Proposed Committee Substitute before the committee. Motion carried. Senator Newton explained the bill and Senator Brock moved for a favorable with a referral to the Finance Committee.

**HOUSE BILL – 925 - ANNEXATION REFORM 2.** - Senator Newton moved to adopt the Proposed Committee Substitute. Motion carried. He then explained the bill. Senator Brock moved for a favorable report to the PCS with a referral to the Finance Committee. Motion carried.

**SENATE BILL – 582 – AUTHORIZE INDIAN GAMING/REVENUE** – Senator Brown moved to bring the Proposed Committee Substitute before the committee. Motion carried. Senator Davis explained the bill. Senator Harrington moved for a favorable report to the PCS and a serial referral to Appropriations Committee. Motion carried.

The meeting adjourned at 2:20 p.m.

---

Senator Tom Apodaca, Chairman

  
Carolyn M. Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 5  
Committee Substitute Favorable 2/10/11  
PROPOSED COMMITTEE SUBSTITUTE H5-PCS11286-RWx-73

Short Title: Local Deannexations.

(Local)

Sponsors:

Referred to:

January 27, 2011

A BILL TO BE ENTITLED

AN ACT TO EXERCISE THE POWER OF THE GENERAL ASSEMBLY UNDER SECTION 1 OF ARTICLE VII OF THE NORTH CAROLINA CONSTITUTION TO FIX THE BOUNDARIES OF CITIES AND GIVE SUCH POWERS TO CITIES AS IT DEEMS ADVISABLE BY DEANNEXING SPECIFIED LOCAL INVOLUNTARY ANNEXATION AREAS, BY REPEALING SPECIFIED INVOLUNTARY ANNEXATION ORDINANCES, AND BY PROHIBITING MUNICIPAL INITIATION OF ANY PROCEDURE TO INVOLUNTARILY ANNEX THOSE AREAS FOR TWELVE YEARS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Deannexation. – Any area affected by an annexation ordinance described in Section 4 of this act that is part of the corporate limits of a municipality on the effective date of this act is hereby removed from that municipality's corporate limits on the effective date of this act. The operation and enforcement of any annexation ordinance described in Section 4 of this act that is pending on the effective date of this act is suspended on and after the effective date of this act.

**SECTION 2.** Repeal annexation ordinances. – All annexation ordinances described in Section 4 of this act are repealed as of the effective date of this act.

**SECTION 3.** Twelve-year prohibition on involuntary annexation. – All areas affected by the annexation ordinances described in Section 4 of this act shall not be subject to any annexation proceeding, other than a voluntary annexation under Part 1 or Part 4 of Article 4A of Chapter 160A of the General Statutes, or local act of the General Assembly, for a period of 12 years from and after the effective date of this act. After the 12-year period, the area may be subject to annexation in accordance with State law effective at that time.

**SECTION 4.** Repealed involuntary annexation ordinances. –

- (1) Kinston annexation ordinance, as described in House Bill 5, First Edition, 2011 Regular Session.
- (2) Lexington annexation ordinance, as described in House Bill 37, First Edition, 2011 Regular Session.
- (3) Rocky Mount annexation ordinance, as described in House Bill 56, First Edition, 2011 Regular Session.
- (4) Wilmington annexation ordinance, described in House Bill 180, First Edition, 2011 Regular Session.



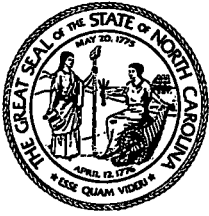
\* H 5 - P C S 1 1 2 8 6 - R W X - 7 3 \*

- 1 (5) Asheville/Biltmore Lake annexation ordinance, as described in House Bill  
2 236, First Edition, 2011 Regular Session.
- 3 (6) Marvin annexation ordinance, affecting the area described in RS  
4 2008-02-02; a resolution of the Village of Marvin Council.
- 5 (7) Southport annexation ordinance, affecting "Area A" and "Area B," as  
6 described in City of Southport annexation ordinance, adopted June 9, 2011.
- 7 (8) Goldsboro annexation ordinance, affecting the area described in Senate Bill  
8 314, First Edition, 2011 Regular Session.
- 9 (9) Fayetteville Gates Four annexation ordinance, as described in House Bill  
10 231, First Edition, 2011 Regular Session.

11 **SECTION 5.** Repeal of 2011 Session Laws. – S.L. 2011-173 and S.L. 2011-177  
12 are repealed.

13 **SECTION 6.** Severability. – If any provision of this act or its application is held  
14 invalid, the invalidity does not affect other provisions or applications of this act that can be  
15 given effect without the invalid provisions or application, and to this end the provisions of this  
16 act are severable.

17 **SECTION 7.** This act becomes effective from and after July 1, 2012.



## HOUSE BILL 5: Local Deannexations

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. LaRoque  
**Analysis of:** PCS to Second Edition  
H5-CSRWx-73

**Date:** May 15, 2012  
**Prepared by:** Giles S. Perry  
Committee Counsel

**SUMMARY:** *House Bill 5 (Proposed Committee Substitute) deannexes specified local involuntary annexations, suspends enforcement of specified pending local involuntary annexations, repeals the local ordinances that made those involuntary annexations, and prohibits involuntary annexation of those areas for twelve years.*

**CURRENT LAW:** Under Section 1 of Article VII of the N.C. Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable."

### **BILL ANALYSIS:**

**Section 1** of the bill deannexes any areas affected by any annexation ordinance listed in Section 4 of the bill that is part of a municipality on the effective date of the bill, and suspends operation and enforcement of any annexation ordinance listed in Section 4 of the bill that is pending on the effective date of the bill.

**Section 2** repeals the local involuntary annexation ordinances listed in Section 4 of the bill.

**Section 3** provides that the nine local annexation areas covered by the bill shall not be subject to any involuntary annexation proceeding for a period of 12 years from and after the effective date.

**Section 4** lists the nine local involuntary annexation ordinances covered by the bill.

**Section 5** repeals S.L. 2011-173 and S.L. 2011-17, the local involuntary annexations bills enacted during the 2011 Session, which subjected nine local pending or completed involuntary annexations to a petition to deny annexation process.

**Section 6** is a severability clause, providing that if any provision of the bill is held invalid, that provision is severable, and the remainder of the bill can be enforced.

**EFFECTIVE DATE:** This act is effective from and after July 1, 2012.

**BACKGROUND:** The 2011 General Assembly enacted the Statewide Annexation Reform Act of 2011 (S.L. 2011-396) and two local acts, S.L. 2011-173 and S.L. 2011-177, affecting nine local annexations, subject to a petition to deny annexation process by affected property owners.

The Statewide Annexation Reform Act of 2011 and the local acts were subject to a lawsuit filed in late 2011. On March 27, 2012, a Wake County Superior Court Judge ruled in favor of the plaintiffs, finding the Statewide and local acts violated Art I, Secs. 11, 19, and 32; and Art. VII, Sec. 1 of the Constitution of North Carolina. The Judge's ruling is under appeal.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 925  
Committee Substitute Favorable 5/26/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H925-PCS30553-STx-90

Short Title: Annexation Reform 2.

(Public)

Sponsors:

Referred to:

May 5, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO REQUIRE A VOTE OF THE RESIDENTS PRIOR TO THE ADOPTION OF  
3 AN ANNEXATION ORDINANCE INITIATED BY A MUNICIPALITY.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Part 7 of Article 4A of Chapter 160A of the General Statutes is  
6 amended by adding a new section to read:

7 "**§ 160A-58.64. Referendum prior to involuntary annexation ordinance.**

8 (a) After the adoption of the resolution of intent under this Part, the municipality shall  
9 place the question of annexation on the ballot. The municipal governing board shall notify the  
10 appropriate county board or boards of elections of the adoption of the resolution of intent and  
11 provide a legible map and clear written description of the proposed annexation area.

12 (b) In accordance with G.S. 163-58.55, the municipal governing board shall adopt a  
13 resolution setting the date for the referendum and so notify the appropriate county board or  
14 boards of elections.

15 (c) The county board or boards of elections shall cause legal notice of the election to be  
16 published. That notice shall include the general statement of the referendum. The referendum  
17 shall be conducted, returned, and the results declared as in other municipal elections in the  
18 municipality. Registered voters of the proposed annexation area shall be allowed to vote on the  
19 referendum.

20 (d) The referendum of any number of proposed involuntary annexations may be  
21 submitted at the same election; but as to each proposed involuntary annexation, there shall be  
22 an entirely separate ballot question.

23 (e) The ballots used in a referendum shall submit the following proposition:

24  FOR  AGAINST

25 The annexation of (clear description of the proposed annexation area)."

26 (f) If less than a majority of the votes cast on the referendum are for annexation, the  
27 municipal governing body may not proceed with the adoption of the annexation ordinance or  
28 begin a separate involuntary annexation process with respect to that proposed annexation area  
29 for at least 36 months from the date of the referendum. If a majority of the votes cast on the  
30 referendum are for annexation, the municipal governing body may proceed with the adoption of  
31 the annexation ordinance under G.S. 160A-58.55."

32 SECTION 2. G.S. 160A-58.55 reads as rewritten:

33 "**§ 160A-58.55. Procedure for annexation.**



1 (a) Resolution of Consideration. – Any municipal governing board desiring to annex  
2 territory under the provisions of this Part shall first pass a resolution of consideration  
3 identifying the area under consideration for annexation by either a metes and bounds  
4 description or a map. The resolution of consideration shall remain effective for two years after  
5 adoption and be filed with the municipal clerk. A new resolution of consideration adopted  
6 before expiration of the two-year period for a previously adopted resolution covering the same  
7 area shall relate back to the date of the previous resolution. Adoption of a resolution of  
8 consideration shall not confer prior jurisdiction over the area as to any other municipality.

9 (b) Notice of Resolution of Consideration. – A notice of the adoption of the resolution  
10 of consideration shall be published once a week for two successive weeks, with each  
11 publication being on the same day of the week, in a newspaper having general circulation in the  
12 municipality. The second publication shall be no more than 30 days following adoption of the  
13 resolution of consideration. The resolution of consideration shall contain a map or description  
14 of the area under consideration and a summary of the annexation process and time lines. A  
15 copy of the resolution of consideration shall be mailed within 30 days after the adoption of the  
16 resolution of consideration by first class mail to the property owners of real property located  
17 within the area under consideration for annexation as shown by the tax records of the county. If  
18 a proposed annexation extends across a county border into a county other than the county where  
19 the majority of the area of the existing municipality is located, a copy of the resolution of  
20 consideration shall be mailed within 30 days after the adoption of the resolution of  
21 consideration by first class mail to the clerk of the board of county commissioners of that  
22 county.

23 (c) Resolution of Intent. – At least one year after adoption of the resolution of  
24 consideration, the municipal governing body may adopt a resolution of intent of the  
25 municipality to proceed with the annexation of some or all of the area described in the  
26 resolution of consideration. The resolution of intent shall describe the boundaries of the area  
27 proposed for annexation, fix a date for a public informational meeting, ~~and~~ fix a date for a  
28 public hearing on the question of annexation, and fix a date for the referendum on annexation.  
29 The date for the public informational meeting shall be not less than 45 days and not more than  
30 55 days following passage of the resolution of intent. The date for the public hearing shall be  
31 not less than 130 days and not more than 150 days following passage of the resolution of intent.  
32 The date of the referendum on annexation shall be set for the next municipal general election  
33 that is more than 45 days from the date of the resolution of intent.

34 (d) Notice of Public Informational Meeting, Public Hearing, and Opportunity for Water  
35 and Sewer. – A combined notice of public informational meeting and public hearing shall be  
36 issued as provided for in this subsection as follows:

- 37 (1) The notice shall be a combined notice that includes at least all of the  
38 following:
- 39 a. The date, hour, and place of the public informational meeting.
  - 40 b. The date, hour, and place of the public hearing.
  - 41 c. A clear description of the boundaries of the area under consideration,  
42 including a legible map of the area.
  - 43 d. A statement that the report required by G.S. 160A-58.53 will be  
44 available at the office of the municipal clerk.
  - 45 e. An explanation of a property owner's rights under this section.
  - 46 f. A summary of the annexation process with time lines.
  - 47 g. A summary of the opportunity to vote in the referendum and  
48 available statutory remedies for ~~denying~~ and ~~appealing~~ the  
49 annexation and the failure to provide services.

- 1 h. Information on how to request to become a customer of the water and  
2 sewer service, all forms to request that service, and the consequences  
3 of opting in or opting out, as provided in G.S. 160A-58.56.
- 4 i. A clear description of the distinction between the public  
5 informational meeting and the public hearing.
- 6 (2) The combined notice shall be given by publication of the information  
7 required by sub-subdivisions (1)a., b., and c. of this subsection and a  
8 statement regarding the availability of the information required by the  
9 remaining sub-subdivisions of subdivision (1) of this subsection in a  
10 newspaper having general circulation in the municipality once a week for at  
11 least two successive weeks prior to the date of the public informational  
12 meeting, with each publication being on the same day of the week. The date  
13 of the last publication shall be not more than 10 days preceding the date of  
14 the public informational meeting. In addition thereto, if the area proposed to  
15 be annexed lies in a county containing less than fifty percent (50%) of the  
16 land area of the municipality, the same publication shall be given in a  
17 newspaper having general circulation in the area of proposed annexation. If  
18 there is no such newspaper, the municipality shall post the notice in at least  
19 five public places within the municipality and at least five public places in  
20 the area to be annexed for 30 days prior to the date of public informational  
21 meeting.
- 22 (3) The combined notice, together with the information about requesting water  
23 and sewer service, shall be mailed within five business days of the passage  
24 of the resolution of intent by first class mail to the property owners of real  
25 property located within the area to be annexed as shown by the tax records  
26 of the county. The person or persons mailing such notices shall certify to the  
27 governing board that fact, and such certificate shall become a part of the  
28 public record of the annexation proceeding and shall be deemed conclusive  
29 in the absence of fraud. If a notice is returned to the municipality by the  
30 postal service by the tenth day before the informational meeting, a copy of  
31 the notice shall be sent by certified mail, return receipt requested, at least  
32 seven days before the informational meeting. Failure to comply with the  
33 mailing requirement of this subsection shall not invalidate the annexation  
34 unless it is shown that the requirements were not substantially complied  
35 with.
- 36 (4) If the governing board by resolution finds that the tax records are not  
37 adequate to identify the property owners within the area to be annexed after  
38 exercising reasonable efforts to locate the property owners, it may, in lieu of  
39 the mail procedure required by subdivision (3) of this subsection, post the  
40 notice at least 30 days prior to the date of the public informational meeting  
41 on all buildings, on such parcels, and in at least five other places within the  
42 area to be annexed as to those parcels where the property owner could not be  
43 so identified. In any case where notices are placed on property, the person  
44 placing the notice shall certify that fact to the governing board.
- 45 (e) Action Prior to Informational Meeting. – At least 30 days before the date of the  
46 public informational meeting, the municipal governing board shall do all of the following:
- 47 (1) Approve the report provided for in G.S. 160A-58.53.
- 48 (2) Prepare a summary of the approved report for public distribution.
- 49 (3) Post in the office of the clerk all of the following:
- 50 a. The approved report provided for in G.S. 160A-58.53.
- 51 b. The summary of the approved report.

- 1 c. A legible map of the area to be annexed.  
2 d. The list of the property owners, and associated mailing addresses, in  
3 the area to be annexed that the municipality has identified and mailed  
4 notice.  
5 e. Information for property owners on how to request to become a  
6 customer of the water service or sewer service and all forms to  
7 request that service.

8 (4) If the municipality has a Web site, post on that Web site all of the  
9 information under this section together with any forms to apply for water  
10 and sewer service.

11 (5) Prepare a summary of the opportunity to vote in the referendum and  
12 available substantivestatutory remedies for denying and appealing the  
13 annexation for public distribution.

14 (f) Public Informational Meeting. – At the public informational meeting, a  
15 representative of the municipality shall first make an explanation of the report required in  
16 G.S. 160A-58.53 and an explanation of the provision of major municipal services. The  
17 explanation of the provision of services shall include how to request water service or sewer  
18 service to individual lots, the average cost of a residential connection to the water and sewer  
19 system, and the opportunity for installation of a residential connection under G.S. 160A-58.56.  
20 A summary of the annexation process with time lines, a summary of opportunity to vote in the  
21 referendum and available statutory remedies for ~~denying and~~ appealing the annexation, an  
22 explanation of the provision of services, and information for requesting water service or sewer  
23 service to individual lots and any forms to so request shall also be distributed at the public  
24 informational meeting. Following such explanation, all property owners and residents of the  
25 area proposed to be annexed as described in the notice of public informational meeting and  
26 hearing, and all residents of the municipality shall be given the opportunity to ask questions and  
27 receive answers regarding the proposed annexation.

28 (g) Public Hearing. – At the public hearing, a representative of the municipality shall  
29 first make an explanation of the report required in G.S. 160A-58.53. Following such  
30 explanation, all property owners and residents of the area proposed to be annexed as described  
31 in the notice of public informational meeting and hearing, and all residents of the municipality,  
32 shall be given an opportunity to be heard.

33 (h) The municipal governing board shall take into consideration facts presented at the  
34 public hearing and shall have authority to amend the report required by G.S. 160A-58.53  
35 to make changes in the plans for serving the area proposed to be annexed so long as such changes  
36 meet the requirements of G.S. 160A-58.53. At any regular or special meeting held no sooner  
37 than the tenth day following the ~~public hearing and not later than 90 days following the public~~  
38 ~~hearing, certification of the election held under G.S. 160A-58.64,~~ the governing board shall  
39 have authority to adopt an ordinance, subject to subsection (i) of this section, extending the  
40 corporate limits of the municipality to include all, or part, of the area described in the notice of  
41 public hearing which the governing board has concluded should be annexed. The annexation  
42 ordinance shall:

- 43 (1) Contain specific findings showing that the area to be annexed meets the  
44 requirements of G.S. 160A-58.54.  
45 (2) Describe the external boundaries of the area to be annexed by metes and  
46 bounds.  
47 (3) Include a statement of the intent of the municipality to provide services to  
48 the area being annexed as set forth in the report required by G.S. 160A-58.53  
49 and a time line for the provision of those services.  
50 (4) Contain a specific finding that on the effective date of annexation, the  
51 municipality will have funds appropriated in sufficient amount to finance



- 1 construction of any water and sewer lines stated in the report required by  
2 G.S. 160A-58.53 to extend the water and sewer services into the area to be  
3 annexed, or that on the effective date of annexation the municipality will  
4 have authority to issue bonds in an amount sufficient to finance such  
5 construction. If authority to issue such bonds shall be secured from the  
6 electorate of the municipality prior to the effective date of annexation, then  
7 the effective date of annexation shall be no earlier than the day following the  
8 statement of the successful result of the bond election.
- 9 (5) Fix the effective date for annexation as June 30 next following the adoption  
10 of the ordinance or the second June 30 following adoption of the ordinance,  
11 but not before the completion of the water and sewer request ~~and petition to~~  
12 ~~deny and appeal periods are complete.~~
- 13 (6) Together, with the list of the property owners of parcels within the area  
14 described in the annexation ordinance to which a notice was mailed under  
15 subsection (d) of this section, be delivered within five business days to the  
16 tax assessor and the board of elections of the county in which a majority of  
17 the municipality lies.
- 18 ~~(7) Be summarized, and sent in accordance with subsection (i) of this section, to~~  
19 ~~the list of the property owners within the area described in the annexation~~  
20 ~~ordinance to which a notice was mailed under subsection (d) of this section~~  
21 ~~together with a blank petition form, preprinted with name and address of the~~  
22 ~~property owner.~~
- 23 (8) If a public body has a Web site, conspicuously post ~~a copy of the petition to~~  
24 ~~deny annexation ordinance that a property owner in the real property located~~  
25 ~~within the area described in the annexation ordinance may download,~~  
26 ~~complete, and return to the county board of elections in accordance with~~  
27 ~~subsection (i) of this section.~~ notice of the referendum until after the  
28 certification of the election.
- 29 (i) Petition-Referendum Vote to Deny on Annexation Ordinance. – The following  
30 procedures in G.S. 160A-58.64 shall apply to this subsection:
- 31 (1) ~~Upon receipt of the resolution of intent and a list of property owners of the~~  
32 ~~real property located within the area, the county tax assessor shall prepare a~~  
33 ~~list of the real property parcels within the area, and forward it to the board of~~  
34 ~~elections in the county where a majority of the parcels proposed for~~  
35 ~~annexation are located. The board of elections shall prepare petitions for~~  
36 ~~property owners of the real property located within the area described in the~~  
37 ~~resolution of intent to sign opposing the annexation ordinance.~~
- 38 (2) ~~A petition shall include the names of the property owners of the parcel of~~  
39 ~~real property listed individually, a signature line for each owner, and a~~  
40 ~~statement that the person signing is petitioning to deny the annexation.~~
- 41 (3) ~~The board of elections shall mail a petition to the address of record for those~~  
42 ~~real property owners within five business days of receipt from the county tax~~  
43 ~~assessor of the list.~~
- 44 (4) ~~The board of elections shall provide two methods by which property owners~~  
45 ~~of the real property located within the area described in the annexation~~  
46 ~~ordinance may sign a petition form prepared by the board of elections: (i) in~~  
47 ~~person or (ii) by submitting the signed petition form by mail. The board of~~  
48 ~~elections shall also accept signatures signed on a petition form prepared by~~  
49 ~~the board of elections, but collected by another, if that petition form is~~  
50 ~~returned to the board of elections in a sealed container.~~

- 1           (5)    ~~If the signed petition is one that was mailed under subdivision (h)(7) of this~~  
2           ~~section and the signer is not the same as the preprinted name on the form, the~~  
3           ~~signed petition shall be notarized and accompanied by a copy of the legal~~  
4           ~~authority for the signature of the person signing a petition.~~
- 5           (6)    ~~If a petition is returned as undeliverable to the board of elections, the board~~  
6           ~~of elections shall send the petition return receipt requested. If the petition is~~  
7           ~~returned again, the board of elections shall not include that property owner~~  
8           ~~in the total number of eligible property owners.~~
- 9           (7)    ~~If there is a change in ownership of real property after the date of the~~  
10          ~~resolution of consideration until 30 days after the date of the adoption of the~~  
11          ~~annexation ordinance, the new owner of the real property shall be considered~~  
12          ~~the eligible owner of real property.~~
- 13          (8)    ~~The board of elections shall accept signatures on the petition until 130 days~~  
14          ~~after the adoption of the annexation ordinance.~~
- 15          (9)    ~~The determination of the results by the board of elections of the petition~~  
16          ~~period shall be observed by three property owners from the area proposed~~  
17          ~~for annexation, chosen by lot by the board of elections from among those~~  
18          ~~who request to serve in this role, and three persons designated by the~~  
19          ~~municipality. A majority of the property owners of a single parcel of real~~  
20          ~~property must sign the petition before the board of elections may count that~~  
21          ~~parcel as having submitted a petition to deny annexation.~~
- 22          (10)   ~~Within 10 business days after the close of the signature period, the board of~~  
23          ~~elections shall certify to the municipal governing body the number of~~  
24          ~~petitions signed by eligible property owners of the real property located~~  
25          ~~within the area described in the annexation ordinance.~~
- 26          (11)   ~~If the board of elections delivers to the municipal governing board petitions~~  
27          ~~signed by eligible property owners of at least sixty percent (60%) of the~~  
28          ~~parcels located within the area described in the annexation ordinance as~~  
29          ~~provided in this subsection, the annexation shall be terminated and the~~  
30          ~~municipality may not adopt a resolution of consideration for the area~~  
31          ~~described in the annexation ordinance for at least 36 months.~~
- 32          (12)   ~~This subsection shall not apply to any property owner of real property~~  
33          ~~located within the area described in the annexation ordinance that is~~  
34          ~~completely surrounded by the municipality's primary corporate limits.~~
- 35          (13)   ~~any annexation under this Part. The municipality shall reimburse the board~~  
36          ~~or boards of elections the costs of the petition process referendum required~~  
37          ~~under this subsection. G.S. 160A-58.64.~~
- 38          (j)    Effect of Annexation Ordinance. – From and after the effective date of the  
39          annexation ordinance, the territory and its citizens and property shall be subject to all debts,  
40          laws, ordinances, and regulations in force in such municipality and shall be entitled to the same  
41          privileges and benefits as other parts of such municipality.
- 42          (k)    Reserved.
- 43          (l)    Reserved.
- 44          (m)    Simultaneous Annexation Proceedings. – If a municipality is considering the  
45          annexation of two or more areas which are all adjacent to the municipal boundary but are not  
46          adjacent to one another, it may undertake simultaneous proceedings under authority of this Part  
47          for the annexation of such areas.
- 48          (n)    Remedies for Failure to Provide Services. – If, not earlier than 30 days after the  
49          effective date of annexation and not later than 15 months from the effective date of annexation,  
50          any property owner in the annexed territory shall believe that the municipality has not followed  
51          through providing services as set forth in the report adopted under G.S. 160A-58.53 and

1 subsection. (e) of this section, the property owner may apply for a writ of mandamus. Relief  
2 may be granted by the judge of superior court if the municipality has not provided the services  
3 set forth in its plan submitted under the provisions of G.S. 160A-58.53(3)a. on substantially the  
4 same basis and in the same manner as such services were provided within the rest of the  
5 municipality prior to the effective date of annexation and those services are still being provided  
6 on substantially the same basis and in the same manner within the original corporate limits of  
7 the municipality. If a writ is issued, costs in the action, including reasonable attorneys' fees for  
8 such aggrieved property owner, shall be charged to the municipality.

9 (o) Reports to the Local Government Commission. – The municipality shall report to  
10 the Local Government Commission as follows:

11 (1) As to whether police protection, fire protection, solid waste services, and  
12 street maintenance services were provided in accordance with  
13 G.S. 160A-58.53(3)a., within 30 days after the effective date of the  
14 annexation. Such report shall be filed no more than 30 days following the  
15 expiration of the 30-day period. If the Local Government Commission  
16 determines that the municipality failed to deliver police protection, fire  
17 protection, solid waste services, or street maintenance services as provided  
18 for in G.S. 160A-58.53(3)a. within 30 days after the effective date of the  
19 annexation, the Local Government Commission shall notify the municipality  
20 that the municipality may not count any of the residents as part of the  
21 population of the municipality for the purpose of receiving any State,  
22 federal, or county dollars distributed based on population until all of the  
23 services are provided.

24 (2) As to whether the extension of water and sewer lines was completed within  
25 the time period specified in G.S. 160A-58.53(3), within six months after the  
26 effective date of the annexation ordinance, and again within three and  
27 one-half years of the effective date of the annexation ordinance or upon the  
28 completion of the installation, whichever occurs first. If the municipality  
29 failed to deliver either water or sewer services, or both, as provided for in  
30 G.S. 160A-58.53(3)b. within three and one-half years after the effective date  
31 of the annexation, the municipality shall stop any other annexations in  
32 progress and may not begin any other annexation until the water and sewer  
33 services are provided. The municipality shall adopt a resolution of  
34 consideration to begin again any annexation that is stopped due to this  
35 subdivision."

36 **SECTION 4.** G.S. 160A-58.51(2) reads as rewritten:

37 "(2) Eligible property owner. – A property owner who is eligible to sign a  
38 petition to deny an annexation ordinance or a property owner who is eligible  
39 to be notified of the opportunity to have water lines and sewer lines and  
40 connections installed at no cost to the property owner. A property owner is  
41 eligible to sign a petition to deny an annexation ordinance if the property  
42 owner held a freehold interest in the property, determined as of the date of  
43 the resolution of consideration. A property owner is eligible to be notified of  
44 the opportunity to have water lines and sewer lines and connections installed  
45 at no cost to the property owner if that property owner held a freehold  
46 interest in the real property to be annexed as of the date of the combined  
47 notice of public informational meeting and public hearing."

48 **SECTION 5.** G.S. 160A-60(a) reads as rewritten:

49 "(a) Within 60 days following the ~~close of the signature period under~~  
50 G.S. 160A-58.55(i), adoption of the annexation ordinance, any property owner of real property  
51 located within the area described in the annexation ordinance who believes that property owner

1 will suffer material injury by reason of the failure of the municipal governing board to comply  
2 with the procedure or to meet the requirements set forth in this Part as they apply to the  
3 annexation may file a petition in the superior court of the county in which the municipality is  
4 located seeking review of the action of the governing board."

5         **SECTION 6.** This act becomes effective July 1, 2012, and applies to any  
6 annexation ordinance adopted under Part 7 of Article 4A of Chapter 160A of the General  
7 Statutes on or after that date.



# HOUSE BILL 925: Annexation Reform 2

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. Moffitt  
**Analysis of:** PCS to Second Edition  
H925-CSSTx-90

**Date:** May 16, 2012  
**Prepared by:** R. Erika Churchill  
Staff Attorney

**SUMMARY:** *The proposed committee substitute for House Bill 925 would require a vote of the residents of the area to be involuntarily annexed prior to the adoption of an annexation ordinance. If less than a majority of the voters vote for the annexation, the municipality may not proceed with annexing that area for 36 months.*

**CURRENT LAW:** As enacted in 2011, G.S. 160A-58.55 sets forth the procedure for annexations initiated by municipalities. The basics of the process timeline of an involuntary annexation are as follows:

- First – adoption of a resolution of consideration.
- Second – adoption of a resolution of intent, which must be done no earlier than one year, or more than two years, after the resolution of consideration.
- Third – Public Informational Meeting.
- Fourth – Public Hearing.
- Fifth – Adoption of the annexation ordinance.
- Sixth – Petition to deny annexation.

The petition to deny annexation is initiated by the municipality, and only the real property owners may participate in the process. A petition is mailed to each property owner in the area described in the annexation ordinance, and that owner is given the opportunity to sign and return it, if the owner wants to deny the annexation of the area described in the annexation ordinance. If at least 60% of the property owners deny the annexation, the municipality's annexation ordinance is terminated.

**BILL ANALYSIS:** The proposed committee substitute would amend G.S. 160A-55.58 to eliminate the petition to deny annexation and substitute a requirement of a referendum. The referendum would be a vote of the residents of the area to be annexed prior to the adoption of the annexation ordinance by the annexing municipality. If less than a majority of the voters approve the annexation, the municipality is prohibited from proceeding with the annexation and from initiating another annexation of that area for 36 months.

The referendum vote would occur between the public hearing and the adoption of the annexation ordinance, and would coincide with the next municipal general election.

**EFFECTIVE DATE:** July 1, 2012 and applies to all ordinances of annexations initiated by municipalities adopted on or after that date.

# House PCS 925

Page 2

**BACKGROUND:** The 2011 General Assembly enacted the Statewide Annexation Reform Act of 2011 (S.L. 2011-396) and two local acts, S.L. 2011 173 and S.L. 2011-177, affecting nine local annexations, subject to a petition to deny annexation process by affected property owners.

The Statewide Annexation Reform Act of 2011 and the local acts were subject to a lawsuit filed in late 2011. On March 27, 2012, a Wake County Superior Court Judge ruled in favor of the plaintiffs, finding the Statewide and local acts violated Art I, Secs. 11, 19, and 32; and Art. VII, Sec. 1 of the Constitution of North Carolina. The State has entered notice of appeal of the trial court's order.

*H925-SMST-71(CSSTx-90) v3*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 582  
PROPOSED COMMITTEE SUBSTITUTE S582-PCS35315-RU-18

Short Title: Authorize Indian Gaming/Revenue.

(Public)

Sponsors:

Referred to:

April 14, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE ADDITIONAL CLASS III GAMING ON INDIAN LANDS  
PURSUANT TO A TRIBAL-STATE GAMING COMPACT, TO CREATE THE INDIAN  
GAMING EDUCATION REVENUE FUND, AND TO APPROPRIATE FUNDS.

Whereas, acting under her authority under the General Statutes, the Governor has negotiated on behalf of the State an Amended & Restated Tribal Gaming Compact (Compact) with the Eastern Band of Cherokee Indians that modifies the type of gaming activity authorized on Indian lands and generates revenue for the benefit of both the Eastern Band and the State; and

Whereas, the Compact is effective upon the General Assembly amending the General Statutes to authorize additional Class III gaming activities on Indian lands, as set out in the Compact and upon approval by the U.S. Department of Interior; and

Whereas, the Governor and the Eastern Band of Cherokee Indians intend for the State's portion of revenue derived from the Compact to be applied toward the improvement of classroom education in North Carolina by appropriation from a distinct fund, and have urged this General Assembly to consider making the necessary appropriations according to law to accomplish this goal; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 10 of Chapter 143C of the General Statutes is amended by adding a new section to read:

**"§ 143C-9-7. Indian Gaming Education Revenue Fund.**

(a) The "Indian Gaming Education Revenue Fund" is established in the State Treasury. Funds shall be expended from the Indian Gaming Education Revenue Fund only by specific appropriation by the General Assembly.

(b) Funds received in the Indian Gaming Education Revenue Fund are hereby appropriated as received to the State Public School Fund for quarterly allotment by the State Board of Education to local school administrative units, charter schools, and regional schools on the basis of allotted average daily membership. The funds allotted by the State Board of Education pursuant to this section shall be nonreverting. Funds received pursuant to this section by local school administrative units shall be expended for classroom teachers, teacher assistants, classroom materials or supplies, or textbooks."

**SECTION 2.** Article 37 of Chapter 14 of the General Statutes is amended by adding a new section to read:

**"§ 14-292.2. Class III gaming on Indian lands.**



\* S 5 8 2 - P C S 3 5 3 1 5 - R U - 1 8 \*

1 (a) Except as otherwise provided in this section, and notwithstanding any laws which  
2 make Class III gaming, as defined by the federal Indian Gaming Regulatory Act, 25 U.S.C. §  
3 2701, et seq., unlawful in this State, the Class III gaming activities listed in subsection (b) of  
4 this section may legally be conducted on Indian lands that are held in trust by the United States  
5 government for and on behalf of federally recognized Indian tribes, if all the following apply:

- 6 (1) The Class III games are conducted in accordance with a valid Class III  
7 Tribal-State Gaming Compact or an amendment to a compact, applicable to  
8 the tribe, that has been negotiated and entered into by the Governor under  
9 the authority provided in G.S. 147-12(a)(14) and G.S. 71A-8.  
10 (2) The Tribal-State Gaming Compact has been approved by the U.S.  
11 Department of the Interior.  
12 (3) The Tribal-State Gaming Compact requires that all monies paid by the tribe  
13 under the Compact be paid to the Indian Gaming Education Revenue Fund  
14 established by law.

15 (b) The following Class III games may lawfully be conducted pursuant to subsection (a)  
16 of this section:

- 17 (1) Gaming machines.  
18 (2) Live table games.  
19 (3) Raffles, as defined in G.S. 14-309.15(b).  
20 (4) Video games, as defined in G.S. 14-306 and G.S. 14-306.1A.

21 (c) Nothing in this section shall modify or affect laws applicable to persons or entities  
22 other than federally recognized Indian tribes operating games in accordance with subsection (a)  
23 of this section.

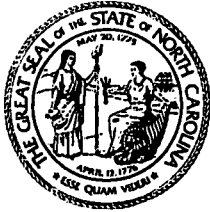
24 (d) As used in this section, the following terms mean:

- 25 (1) Gaming machine. – A machine that meets the definition of any of the  
26 following:  
27 a. As set forth in G.S. 14-306.  
28 b. "Gaming machine" as set forth in 25 C.F.R. § 542.2.  
29 c. "Gambling device" as set forth in 15 U.S.C. § 1171.  
30 (2) Live table games. – Games that utilize real nonelectronic cards, dice, chips,  
31 or equipment in the play and operation of the game."

32 **SECTION 3.** G.S. 14-306.1A(e) is repealed.

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





## SENATE BILL 582 (PCS): Authorize Indian Gaming/Revenue.

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	May 15, 2012
<b>Introduced by:</b>	Sen. Apodaca	<b>Prepared by:</b>	Hal Pell
<b>Analysis of:</b>	PCS to First Edition S582-CSRU-18		Staff Attorney

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**SUMMARY:** *The proposed committee substitute makes specified Class III gaming activities lawful if conducted on Indian lands pursuant to a Tribal-State Compact; establishes an Indian Gaming Education Revenue Fund, with funds appropriated to the State Public School Fund as received from revenue paid pursuant to a Tribal-State Compact; and provides that funds are to be allotted quarterly to local school administrative units, charter schools, and regional schools on the basis of average daily membership.*

### CURRENT LAW:

The federal Indian Gaming Regulatory Act (IGRA) allows federally-recognized Indian tribes to conduct certain gaming activities only in conformance with a valid compact between the tribe and the State in which the gaming activities are located. The IGRA divides gaming into three Classes, with Class III gaming being those games that are typically deemed "casino style" games, but also includes electronic facsimiles of any game of chance. (see Attachment for description of gaming classes).

Under federal and State law, a Class III gaming activity may only be conducted if it (1) is located in a state that permits such gaming for any purpose by any person, organization, or entity [has been made lawful], and (2) is conducted pursuant to a Tribal State compact. The federal courts have held that a state law authorizing gaming only by Indian tribes on Indian lands complies with the IGRA, and does not violate the Equal Protection Clause of the United States Constitution.

### BACKGROUND:

In 1994, Governor Hunt entered into a Tribal-State Compact with the Eastern Band of Cherokee Indians (Tribe). The Compact has been amended, with the last amendments signed in 2000, again by Governor Hunt. The Compact provided that the Tribe may conduct raffles and video games. "Video Games" was defined as

any electronic video game or amusement device that allows a player to play a game of amusement involving the use of skill or dexterity as allowed under NCGS 14-306(b) and 14-306.1, or as subsequently amended by the North Carolina General Assembly.

The 2000 Compact was for a term of 30 years, and had no revenue sharing provision, i.e., no percentage of revenue received by the Tribe from video gaming went to the State. When the General Assembly made video gaming unlawful in 2006, it excepted video gaming conducted by a federally-recognized Indian Tribe on Indian lands, pursuant to a lawful Tribal-State Compact.

On November 28, 2011, Governor Perdue entered into a "First Amended & Restated Tribal State Compact" with the Eastern Band of Cherokee Indians. In addition to raffles and video games, the Compact would authorize the Tribe to conduct "all Class III gaming activities as defined by the Act that are customary in other gaming jurisdictions in the United States as of the Execution Date, including, without limitation, Live Table Gaming on Eastern Cherokee Lands."

# Senate PCS 582

Page 2

Because North Carolina law only authorizes the Governor to enter into Compacts that "are consistent with State law," the 2011 Compact includes a requirement, in order for the Compact to become effective, that there is "passage of authorizing legislation by the North Carolina General Assembly." Absent legislation by the General Assembly which makes the proposed Class III gaming activities lawful for the Tribe, any Compact "authorizing" such activities cannot be deemed lawful and will not be approved by the Secretary of the Interior—which is necessary for the conduct of Class III gaming on Indian lands.

## **BILL ANALYSIS:**

### **Section 1**

- Establishes a non-reverting "Indian Gaming Education Revenue Fund" (IGERF) in the State Treasury. Funds shall only be expended from the Fund by specific appropriation.
- Funds received by the IGERF are deemed appropriated as received to the State Public School Fund for quarterly allotment by the State Board of Education to: local school administrative units; charter schools; and regional schools.
- Funds received by local school administrative units are directed to be spent for classroom teachers; teacher assistants; classroom materials or supplies, or textbooks.

### **Section 2**

- Provides that a described list of Class III games may be legally conducted on Indian lands if: the gaming is pursuant to a valid Tribal-State Compact that has been approved by the U.S. Department of the Interior, and the Compact requires that all monies paid by the tribe [revenue sharing] are to be paid to the IGERF.
- The act would authorize the following Class III games:
  - (1) Gaming Machines. A Gaming Machine is defined as one that meets the definition of the "slot machine" under State law; or a "gaming machine" or "gambling device" under federal law. (see Attachment for the federal definitions)
  - (2) Live table games. Live table games are defined as games that utilize non-electric cards, dice, chips or equipment in the play and operation of the games. In that the definition of "gambling device" at 15 U.S.C. 1171(a)(2)(Attachment) may include non-electric equipment, it is unclear how such games would be categorized (*i.e.*, are they "gaming devices" or "live table games").
  - (3) Raffles, as defined by State law.
  - (4) Video games, as defined by State law. The referenced statutes define "video games" as ones that allow a player to play a game of amusement involving the use of skill or dexterity, or those that are not dependent on the skill or dexterity of the player. The current Compact only authorizes "video games" to be conducted on Indian lands that allow a player to play a game of amusement involving the use of skill or dexterity.

**Section 3** -- Repeals the current law that exempts video gaming, if conducted pursuant to a valid Tribal-State Compact, from State statutes which makes operating or possessing certain video games unlawful.

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

## ATTACHMENT

### **IGRA Classifications of Tribal Gaming**

**Class I:** Social gaming, such as traditional Indian games played as part of tribal ceremonies and celebrations. Tribes have exclusive authority to regulate Class I gaming.

**Class II:** Bingo, pull-tabs and other similar games, including non-banking card games not prohibited by state law. Expressly excluded from Class II gaming are banking card games, such as blackjack, or slot machines of any kind. Tribes have authority to regulate Class II gaming under the jurisdiction of the National Indian Gaming Commission. Self-regulatory ordinances adopted by tribal governments must be approved by the Commission.

**Class III:** All forms of gaming that are not included under Class I or Class II, such as blackjack and slot machines. Class III games are legal on tribal lands only if the games are authorized by the governing body of the tribe; the games are located in a state that permits gaming for any purpose by any person, organization or entity; and the games are conducted in conformance with a tribal-state compact entered into by the tribe and the state in which the gaming is conducted. Class III gaming compacts negotiated under the IGRA include stringent provisions ranging from application of criminal and civil laws regarding licensing and regulation of gaming, to standards for the operation of gaming activities, and financial assessments by the state to defray the costs of background investigations or other expenses associated with enforcement of the compacts.

<http://www.indiangaming.com/industry/>

### **Gaming Machine, 25 C.F.R. §542.2**

Gaming machine means an electronic or electromechanical machine that allows a player to play games of chance, one of which may be affected by skill, which contains a microprocessor with random number generator capability for outcome selection or computer terminal that accesses an outcome that is subsequently and randomly elected in drawings that are electronically conducted by central computer or other such methods of chance selection, whether mechanical or electronic. The machine is activated by the insertion of cash or cash equivalents and which awards cash, cash equivalents, merchandise, or a written statement of the player's accumulated credits, which written statements may be redeemable for cash.

### **Gambling Device, 15 U.S.C. §1171**

(a) The term "gambling device" means—

(1) any so-called "slot machine" or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and

(A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or

(B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(2) any other machine or mechanical device (including, but not limited to, roulette wheels and similar devices) designed and manufactured primarily for use in connection with gambling, and

(A) which when operated may deliver, as the result of the application of an element of chance, any money or property, or

(B) by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

3) any subassembly or essential part intended to be used in connection with any such machine or mechanical device, but which is not attached to any such machine or mechanical device as a constituent part.

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Wednesday, May 16, 2012

Senator Apodaca submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL , BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL  
NO.**

S.B.	<b>582</b>	Clarify Indian Gaming Authority.	
		Draft Number:	35315
		Sequential Referral:	None
		Recommended Referral:	Appropriations/Base Budget
		Long Title Amended:	Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL, BUT FAVORABLE AS TO  
SENATE COMMITTEE SUBSTITUTE BILL**

H.B. 5 (CS)	Kinston Annexation Repealed.	
	Draft Number:	11286
	Sequential Referral:	None
	Recommended Referral:	Finance
	Long Title Amended:	Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL, BUT FAVORABLE AS TO  
SENATE COMMITTEE SUBSTITUTE BILL**

H.B. 925 (CS)	LRC Study Metropolitan Sewerage/Water System.	
	Draft Number:	30553
	Sequential Referral:	None
	Recommended Referral:	Finance
	Long Title Amended:	Yes

TOTAL REPORTED: 3

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

SENATE Rules & Operations

5-16-2012

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

NAME	FIRM OR AGENCY AND ADDRESS
Les Mullins	346 Shellcastle RD <sup>OLCAFA</sup> NRSh county Rocky Mount NC
LAURENCE E ALFORD	232 Shellcastle Road Rocky Mount, NC 27804 <b>OLCAFA</b>
GENE BAKER	OLCAFA
Mirley BAKER	OLCAFA
Bob & Jean Britt	OLCAFA
Cynthia Bennett	Representative for Christian Science Committee on Publication, NC
Rose Chappel	<sup>OLCAFA</sup> 3465 Eastern ave Rocky mount N.C. 27804
Charles Chappel	3465 Eastern ave Rocky mount NC 27804 OLCAFA
Kent Dozier	OAK LEVEL COMMUNITY AGAINST FORCED ANNEXATION 4540 DOZIER RD, ROCKY MOUNT, NC 27804
Cassandra Harken	FML Gates
avid Elmore	Moore & Van Allen

## VISITOR REGISTRATION SHEET

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Libby May	Oak Level Against Forced Annexation
Royce May	" " " " "
Helen Daniel	Oak Level Against Forced Annexation
John McElrath	Mr LLC
Judy Davis	Against Forced Annexation State Four Homeowners Assoc
Mike Mahi	Gate Four NBASSO
Charlene Moore	Oak Level Against Forced Annexation
Brenda Baker	" " " " "
Leis Dixon	" " " " "
Dr. Judith Nish	6858 Southstall, Fayetteville NC Gate 4 - Against Annexation
Pat A. Welch	" " " "

## VISITOR REGISTRATION SHEET

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Date

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Laverne Winstead	OLCAFA
David Winstead	OLCAFA
Elizabeth Hunter	olcafa
" Riley Whiteaker	olcafa
Ron & Rita Ayers	olcafa
Marie Howell	Rowan County
Michael Davis	OICAFA
Pinda Wilson	OLCAFA
JIMMY DOZIER	OICAFA
Jordan McBride	The Policy Group
Errolm Pruitt	DST

## VISITOR REGISTRATION SHEET

Name of Committee

Date

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FIRM OR AGENCY AND ADDRESS

Faith Giguere	OLCAFA
Lisa Barnes	OLCAFA
Pete Whitley	OLCAFA
Glenn Whitley	OLCAFA
Arroy Nelson	OLCAFA
Alison Miller	NLALC
Bob B. Keeney	Eastern Cherokee
Chip Kellin	Nelson Mullins
Daniel Auburn	NCRMA
Camron Hanley	Electronics
Isanna Davis	Gov Office



## VISITOR REGISTRATION SHEET

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Walter Murphy	Fayetteville, NC
Charles Mardis	Pinehurst, NC
Doug Aiken	Fair Connection Coalition
Tommy Tetterton	" "
Kelli Luba	NCLM
Rev. MARK CREECH	CAE
Robert Monteiro, MD	NCMS
Amy White	NCMS
Amy McConkey	NC Bev Assn
Dave Horne	SA
wid E Parker	Oak Level
Libby A Parker	Oak Level

## VISITOR REGISTRATION SHEET

Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Dennis Taylor	Eastern Band of Cherokee Indians Cherokee N.C.
Gene Byrall	NC Family Policy Council
W. O'Neill	MMHAospis
R. Williams	OLCAFA
Betty Williams	OLCAFA
Fred Baggett	NC Police Chiefs Assn
Tommy Brasler	Town of Grover
Perry Huff	School of Gov.
Walter Cook	Oak Level

## VISITOR REGISTRATION SHEET


Name of Committee

Date

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NAME

FIRM OR AGENCY AND ADDRESS

Stephen Karba	COMPASS NC
	MWC
BRUCE THOMPSON	PARKER POE
Edgar Miller	CTNC
PARKER TROUTMAN	INTERN (SEN. HUNT)
Corey Clapper	Intern (Sen. Hunt)
Meredith Dartington	Intern (Sen. Mansfield)
DAVID BAUM	TROUTMAN SANDERS
Chime King	NICEL
Annette Tarnowski	EBCI, Cherokee NE
George Smith	Williams Miller
Pamela Meyer	NCLM



MINUTES

RULES AND OPERATIONS OF THE SENATE

May 31, 2012

The Committee on rules and Operations of the Senate met on May 31, 2012 at 9:30 a.m. in room 1027 of the Legislative building. Thirteen members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced the pages and sergeant-at-arms.

**HOUSE BILL – 966- TEACHER PREPAYMENT & SALARY/PRE-K ELIGIBILITY-** Senator Newton moved to adopt the Proposed Committee Substitute. Motion carried.

Representative Holloway explained the bill. Senator Brock moved for a favorable report to the PCS. Motion carried.

The meeting adjourned at 9:45 a.m.



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Senator Tom Apodaca, Chairman



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Carolyn M. Godden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 966\*  
PROPOSED SENATE COMMITTEE SUBSTITUTE H966-PCS30619-LE-25

Short Title: Teacher Prepayment & Salary/Pre-K Eligibility.

(Public)

Sponsors:

Referred to:

May 17, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO REPEAL THE PROHIBITION ON TEACHER PREPAYMENT, CLARIFY  
3 ELIGIBILITY FOR THE NC PRE-K PROGRAM, AND ENACT 2012-2013 SALARY  
4 SCHEDULES FOR TEACHERS AND SCHOOL ADMINISTRATORS.

5 The General Assembly of North Carolina enacts:

6 **REPEAL PROHIBITION ON PREPAYMENT OF TEACHERS**

7 **SECTION 1.** Section 5 of S.L. 2011-379 is repealed.  
8

9 **CLARIFY NC PRE-K PROGRAM ELIGIBILITY**

10 **SECTION 2.(a)** Section 10.7(f) of S.L. 2011-145 is rewritten to read:

11 **"SECTION 10.7.(f)** ~~The prekindergarten program may continue to serve at risk children~~  
12 ~~identified through the existing "child find" methods in which at risk children are currently~~  
13 ~~served within the Division of Child Development. The Division of Child Development shall~~  
14 ~~serve at risk children regardless of income. However, the total number of at risk children~~  
15 ~~served shall constitute no more than twenty percent (20%) of the four year olds served within~~  
16 ~~the prekindergarten program. Any~~ The Division of Child Development and Early Education  
17 shall establish income eligibility requirements for the program not to exceed seventy-five  
18 percent (75%) of the State median income. Up to twenty percent (20%) of children enrolled  
19 may have family incomes in excess of seventy-five percent (75%) of median income if they  
20 have other designated risk factors. Furthermore, any age-eligible child who is a child of either  
21 of the following shall be eligible for the program: (i) an active duty member of the Armed  
22 Forces of the United States, including the North Carolina National Guard, State military forces,  
23 or a reserve component of the Armed Forces, who was ordered to active duty by the proper  
24 authority within the last 18 months or is expected to be ordered within the next 18 months or  
25 (ii) a member of the Armed Forces of the United States, including the North Carolina National  
26 Guard, State military forces, or a reserve component of the Armed Forces, who was injured or  
27 killed while serving on active duty. Eligibility determinations for prekindergarten participants  
28 may continue through local education agencies and local North Carolina Partnership for  
29 Children, Inc., partnerships."

30 **SECTION 2.(b)** Section 10.7(h) of S.L. 2011-145 is repealed.  
31

32 **TEACHER SALARY SCHEDULES**

33 **SECTION 3.(a)** The following monthly salary schedules shall apply for the  
34 2012-2013 fiscal year to certified personnel of the public schools who are classified as teachers.



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1 The schedules contain 36 steps, with each step corresponding to one year of teaching  
 2 experience. Public school employees paid according to this salary schedule and receiving  
 3 NBPTS certification or obtaining a master's degree shall not be prohibited from receiving the  
 4 appropriate increase in salary. Provided, however, teachers employed during the 2011-2012  
 5 school year who did not work the required number of months to acquire an additional year of  
 6 experience shall not receive a decrease in salary as otherwise would be required by the salary  
 7 schedule below.

2012-2013 Monthly Salary Schedule

Years of Experience	"A" Teachers	NBPTS Certification
0	\$3,043	N/A
1	\$3,043	N/A
2	\$3,043	N/A
3	\$3,043	\$3,408
4	\$3,043	\$3,408
5	\$3,085	\$3,455
6	\$3,129	\$3,504
7	\$3,264	\$3,656
8	\$3,404	\$3,812
9	\$3,538	\$3,963
10	\$3,667	\$4,107
11	\$3,771	\$4,224
12	\$3,819	\$4,277
13	\$3,868	\$4,332
14	\$3,918	\$4,388
15	\$3,967	\$4,443
16	\$4,018	\$4,500
17	\$4,069	\$4,557
18	\$4,122	\$4,617
19	\$4,176	\$4,677
20	\$4,231	\$4,739
21	\$4,286	\$4,800
22	\$4,345	\$4,866
23	\$4,403	\$4,931
24	\$4,461	\$4,996
25	\$4,523	\$5,066
26	\$4,584	\$5,134
27	\$4,650	\$5,208
28	\$4,714	\$5,280
29	\$4,779	\$5,352
30	\$4,845	\$5,426
31	\$4,913	\$5,503
32	\$4,984	\$5,582
33	\$5,055	\$5,662
34	\$5,153	\$5,771
35+	\$5,255	\$5,886

2012-2013 Monthly Salary Schedule

Years of Experience	"M" Teachers	NBPTS Certification
---------------------	--------------	---------------------

1	0	\$3,347	N/A
2	1	\$3,347	N/A
3	2	\$3,347	N/A
4	3	\$3,347	\$3,749
5	4	\$3,347	\$3,749
6	5	\$3,394	\$3,801
7	6	\$3,442	\$3,855
8	7	\$3,590	\$4,021
9	8	\$3,744	\$4,193
10	9	\$3,892	\$4,359
11	10	\$4,034	\$4,518
12	11	\$4,148	\$4,646
13	12	\$4,201	\$4,705
14	13	\$4,255	\$4,766
15	14	\$4,310	\$4,827
16	15	\$4,364	\$4,888
17	16	\$4,420	\$4,950
18	17	\$4,476	\$5,013
19	18	\$4,534	\$5,078
20	19	\$4,594	\$5,145
21	20	\$4,654	\$5,212
22	21	\$4,715	\$5,281
23	22	\$4,780	\$5,354
24	23	\$4,843	\$5,424
25	24	\$4,907	\$5,496
26	25	\$4,975	\$5,572
27	26	\$5,042	\$5,647
28	27	\$5,115	\$5,729
29	28	\$5,185	\$5,807
30	29	\$5,257	\$5,888
31	30	\$5,330	\$5,970
32	31	\$5,404	\$6,052
33	32	\$5,482	\$6,140
34	33	\$5,561	\$6,228
35	34	\$5,668	\$6,348
36	35+	\$5,781	\$6,475

**SECTION 3.(b)** Section 29.12(d) of S.L. 2011-145 reads as rewritten:

**"SECTION 29.12.(d)** The first step of the salary schedule for school psychologists shall be equivalent to ~~Step 5~~, Step 9, corresponding to ~~five~~-nine years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "M" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars (\$126.00) per month in addition to the compensation provided for certified psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars (\$253.00) per month in addition to the compensation provided for certified psychologists."

**SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE**



SECTION 4.(a) The following base salary schedule for school-based administrators shall apply only to principals and assistant principals. This base salary schedule shall apply for the 2012-2013 fiscal year, commencing July 1, 2012. Provided, however, school-based administrators (i) employed during the 2011-2012 school year who did not work the required number of months to acquire an additional year of experience and (ii) employed during the 2012-2013 school year in the same classification shall not receive a decrease in salary as otherwise would be required by the salary schedule below.

2012-2013 Principal and Assistant Principal Salary Schedules  
Classification

Years of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-8	\$3,781	-	-	-	-
9	\$3,931	-	-	-	-
10	\$4,074	-	-	-	-
11	\$4,189	-	-	-	-
12	\$4,243	\$4,243	-	-	-
13	\$4,298	\$4,298	-	-	-
14	\$4,353	\$4,353	\$4,408	-	-
15	\$4,408	\$4,408	\$4,464	-	-
16	\$4,464	\$4,464	\$4,521	\$4,579	-
17	\$4,521	\$4,521	\$4,579	\$4,640	\$4,701
18	\$4,579	\$4,579	\$4,640	\$4,701	\$4,762
19	\$4,640	\$4,640	\$4,701	\$4,762	\$4,828
20	\$4,701	\$4,701	\$4,762	\$4,828	\$4,891
21	\$4,762	\$4,762	\$4,828	\$4,891	\$4,956
22	\$4,828	\$4,828	\$4,891	\$4,956	\$5,025
23	\$4,891	\$4,891	\$4,956	\$5,025	\$5,092
24	\$4,956	\$4,956	\$5,025	\$5,092	\$5,166
25	\$5,025	\$5,025	\$5,092	\$5,166	\$5,237
26	\$5,092	\$5,092	\$5,166	\$5,237	\$5,310
27	\$5,166	\$5,166	\$5,237	\$5,310	\$5,383
28	\$5,237	\$5,237	\$5,310	\$5,383	\$5,458
29	\$5,310	\$5,310	\$5,383	\$5,458	\$5,537
30	\$5,383	\$5,383	\$5,458	\$5,537	\$5,617
31	\$5,458	\$5,458	\$5,537	\$5,617	\$5,725
32	\$5,537	\$5,537	\$5,617	\$5,725	\$5,839
33	\$5,617	\$5,617	\$5,725	\$5,839	\$5,956
34	\$5,725	\$5,725	\$5,839	\$5,956	\$6,075
35	\$5,839	\$5,839	\$5,956	\$6,075	\$6,197
36	-	\$5,956	\$6,075	\$6,197	\$6,321
37	-	-	\$6,197	\$6,321	\$6,447
38	-	-	\$6,321	\$6,447	\$6,576
39	-	-	-	\$6,576	\$6,708
40	-	-	-	\$6,708	\$6,842
41	-	-	-	-	\$6,979

2012-2013 Principal and Assistant Principal Salary Schedules  
Classification

Years of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
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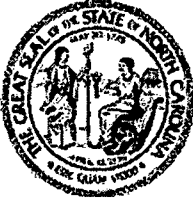
1	0-18	\$4,828	-	-	-
2	19	\$4,891	-	-	-
3	20	\$4,956	\$5,025	-	-
4	21	\$5,025	\$5,092	\$5,237	-
5	22	\$5,092	\$5,166	\$5,310	\$5,383
6	23	\$5,166	\$5,237	\$5,383	\$5,458
7	24	\$5,237	\$5,310	\$5,458	\$5,537
8	25	\$5,310	\$5,383	\$5,537	\$5,617
9	26	\$5,383	\$5,458	\$5,617	\$5,725
10	27	\$5,458	\$5,537	\$5,725	\$5,839
11	28	\$5,537	\$5,617	\$5,839	\$5,956
12	29	\$5,617	\$5,725	\$5,956	\$6,075
13	30	\$5,725	\$5,839	\$6,075	\$6,197
14	31	\$5,839	\$5,956	\$6,197	\$6,321
15	32	\$5,956	\$6,075	\$6,321	\$6,447
16	33	\$6,075	\$6,197	\$6,447	\$6,576
17	34	\$6,197	\$6,321	\$6,576	\$6,708
18	35	\$6,321	\$6,447	\$6,708	\$6,842
19	36	\$6,447	\$6,576	\$6,842	\$6,979
20	37	\$6,576	\$6,708	\$6,979	\$7,119
21	38	\$6,708	\$6,842	\$7,119	\$7,261
22	39	\$6,842	\$6,979	\$7,261	\$7,406
23	40	\$6,979	\$7,119	\$7,406	\$7,554
24	41	\$7,119	\$7,261	\$7,554	\$7,705
25	42	\$7,261	\$7,406	\$7,705	\$7,859
26	43	-	\$7,554	\$7,859	\$8,016
27	44	-	\$7,705	\$8,016	\$8,176
28	45	-	-	\$8,176	\$8,340

SECTION 4.(b) G.S. 29.13(h) of S.L. 2011-145 reads as rewritten:

"SECTION 29.13.(h) During the 2011-2012 fiscal ~~year~~, year and the 2012-2013 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher."

#### EFFECTIVE DATE

SECTION 5. Section 2 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2012.



# HOUSE BILL 966: Repeal Prohibition on Teacher Prepayment

2011-2012 General Assembly

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<b>Committee:</b>	Re-ref to Rules and Operations of the Senate. If fav, re-ref to Appropriations/Base Budget	<b>Date:</b>	May 30, 2012
<b>Introduced by:</b>	Reps. Holloway, Johnson, Blackwell, Hilton	<b>Prepared by:</b>	Giles S. Perry Committee Counsel
<b>Analysis of:</b>	PCS to First Edition H966-CSLE-25		

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## **Section 1: Repeal Prohibition on Teacher Prepayment**

**Current Law:** G.S.115C-302.1(b) details how teachers are paid. Teachers may be prepaid on the monthly pay date for days not yet worked. However, if they fail to attend scheduled workdays, do not work the number of days for which they have been paid and resign, are dismissed, or do not receive a renewed contract, they must repay the local board any salary received for days not yet worked. Teachers who have been prepaid and continue to work for a local board but fail to attend scheduled work days are subject to dismissal or other disciplinary actions.

Section 5 of S.L. 2011-379 (HB 720) removed the ability for local boards of education to pre-pay for days not yet worked and provided that teachers may only be paid for days employed as of the set pay date. Payment for a full month when days employed are less than a full month would be prohibited. This prohibition on prepayment will become effective July 1, 2012.

**Analysis:** Repeals the prohibition on teacher prepayment which was enacted by Section 5 of S.L. 2011-379 (HB 720). Under Section 5 of S.L. 2011-379, the prohibition on prepayment does not become effective until July 1, 2012. This section would allow prepayment as is currently allowed under G.S. 115C-302.1(b) to continue as it is currently being implemented by local boards of education without any changes.

**Effective date:** This section would become effective July 1, 2012.

## **Section 2: Clarify NC Pre-K Program Eligibility**

**Current Law:** Section 10.7(f) of S.L. 2011-145 (Budget) states that the NC prekindergarten program (NC Pre-K) may continue to serve at-risk children identified through existing "child find" methods in which at-risk children are currently served within the Division of Child Development. The Division of Child Development is directed to serve at-risk children regardless of income. However, the total number of at-risk children can constitute no more than twenty percent (20%) of the four-year olds served within the NC Pre-K program. Section 10.7(h) requires parent co-payments for the NC Pre-K program which are the same as those required of parents receiving regular child care subsidy.

**Analysis:** Clarifies the relevant section of S.L. 2011-145 (Budget) regarding NC Pre-K eligibility standards and removes the parent co-pay requirement for the NC Pre-K program.

**Effective Date:** This section would become effective when it becomes law.

## **Section 3: Establishes 2012-13 Teacher Salary Schedule**

**Effective date:** This section would become effective July 1, 2012.

## **Section 4 Establishes 2012-13 School Based Administrator Salary Schedule**

**Effective date:** This section would become effective July 1, 2012.

*Drupti Chauhan, counsel to the Senate and House Education Committees, substantially contributed to this summary.*

H966-SMRW-190(CSLE-25) v3

Research Division

O. Walker Reagan, Director

(919) 733-2578

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Thursday, May 31, 2012

Senator ,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

H.B.	966	Repeal Prohibition on Teacher Prepayment.
		Draft Number: 30619
		Sequential Referral: Appropriations/Base Budget
		Recommended Referral:
		Long Title Amended: Yes

TOTAL REPORTED: 1

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

Rules & Operations of Senate  
(Committee Name)

MAY 31, 2012  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Cady Thomas	NCAR
Allison Waller	Nelson Mullins
ZEB ALLEY	NMFS
John Polunski	NCAAA
Paul Sherman	NCFB
George Smider	Willams Muller
Ann McEl	SBE
Marc Freeman	NCAE
Matt Shaul	NCSBA
Leanne Winner	NCSBA
Joe Schamberg	NCSBA
Mark Fleming	BSSNE
Maan Jordan	ASK
David Bauer	PS
Chip Byrd	NCMS
Rick Lechini	Progress Energy
Kari Barsnuss	DENE

**VISITOR REGISTRATION SHEET**

Rules of Operations of the Senate

(Committee Name)

5-31-2012

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Will Lawrence	NKICU
Tom BEAN	EDF
K. Bestman	TSS
E. RIVICK	TSS
Matt Meinig	NCLM
Pam Meyers	NCLM
Cynthia Barrett	NC Christian Science Com. on Pub.
Gene Causby	NCSCA
Jordan McBride	The Policy Group
Kim Hargrove	NCARD
Leah Elliott	EHGR
Susanna Hailey	KML Gateer
Katherine Joyce	NKASA



MINUTES

RULES AND OPERATIONS OF THE SENATE

June 7, 2012

The Committee on Rules and Operations of the Senate met on June 7, 2012 at 12:00 p.m. in room 1027 of the Legislative Building. Eleven members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced the pages and sergeant-at-arms assisting with the committee.

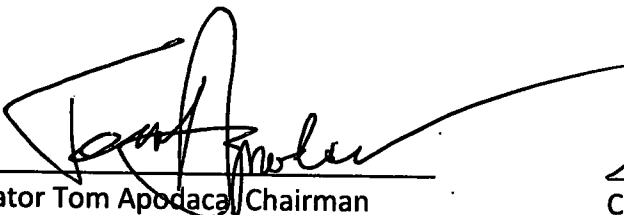
**HOUSE BILL – 203 – MORTGAGE SATISFACTION FORMS/NO FALSE LIENS** – Senator Brunstetter moved to adopt the Proposed Committee Substitute. Motion carried. Senator Tucker explained the bill. Senator Newton moved for a favorable report to the PCS. Motion carried.

**HOUSE BILL – 813 – BLDG. CODE INSPECTIONS/INDUSTRIAL MACHINERY** – Senator Jackson moved to adopt the Proposed Committee Substitute. Motion carried. Senator Hartsell explained the bill. Senator Garrou moved for a favorable report to the PCS. Motion carried.

**SENATE BILL – 910 – SALE OF a CHILD/FELONY OFFENSE** – Senator Atwater explained the bill. Senator Garrou moved for a favorable report. Motion carried.

**HOUSE BILL - 1065 – USE MOORE SCHOOL BUSES FOR 2014 US OPEN** – Giles Perry, Research Staff Attorney, explained the bill. Senator Garrou moved for a favorable report. Motion carried.

The meeting adjourned at 12:45 p.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant



**Senate Rules and Operations of the Senate Committee**  
**Thursday, June 07, 2012, 12:00 PM**  
**1027**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

**HB 203 Show Mortgage Payoff on Satisfaction Filing**

**Rep. Crawford**

**HB 813 ESC/Jobs Reform**

**Rep. Howard, Rep. Starnes**

**SB 910 Sale of a Child/Felony Offense**

**Senator Atwater**

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 203  
PROPOSED SENATE COMMITTEE SUBSTITUTE H203-CSR-V-46 [v.2]

6/1/2012 5:09:48 PM

Short Title: Mortgage Satisfaction Forms/No False Liens. (Public)

Sponsors:

Referred to:

March 2, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE AN ALTERNATIVE MORTGAGE SATISFACTION FORM THAT  
3 ALLOWS A SECURED CREDITOR TO INDICATE THAT THE UNDERLYING  
4 OBLIGATION HAS BEEN EXTINGUISHED; TO MAKE IT A CLASS I FELONY TO  
5 SIMULATE COURT PROCESS IN CONNECTION WITH THE COLLECTION OF A  
6 CLAIM, DEMAND, OR ACCOUNT, TO KNOWINGLY FILE A FALSE LIEN OR  
7 ENCUMBRANCE AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC  
8 OFFICER OR PUBLIC EMPLOYEE, OR TO FILE A FALSE SECURITY  
9 INSTRUMENT; AND TO PROVIDE THAT IT IS A VIOLATION OF THE  
10 RESIDENTIAL MORTGAGE FRAUD ACT FOR A PERSON TO KNOWINGLY FILE  
11 A DOCUMENT FALSELY CLAIMING THAT A MORTGAGE LOAN HAS BEEN  
12 SATISFIED OR DISCHARGED.

13 The General Assembly of North Carolina enacts:

14 SECTION 1. G.S. 45-36.11 reads as rewritten:

15 "§ 45-36.11. Satisfaction: form.

16 (a) Standard Form. - No particular phrasing is required for a satisfaction of a security  
17 instrument. The following form, when properly completed, is sufficient to satisfy the  
18 requirements of G.S. 45-36.10(a):  
19

20 'SATISFACTION OF SECURITY INSTRUMENT  
21 (G.S. 45-36.10; G.S. 45-37(a)(7))  
22

23 The undersigned is now the secured creditor in the security instrument identified as follows:

24 Type of Security Instrument: (identify type of security instrument, such as deed of trust or  
25 mortgage)

26 Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

27 Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured  
28 party(ies) in the security instrument)

29 Recording Data: The security instrument is recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ or as  
30 document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County,  
31 North Carolina.

32 This satisfaction terminates the effectiveness of the security instrument.

33 Date: \_\_\_\_\_

34 \_\_\_\_\_  
(Signature of secured creditor)



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[Acknowledgment before officer authorized to take acknowledgments]'

(b) Alternate Form. – A secured creditor who would like to indicate that the underlying obligation secured by the instrument has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.10(a):

'SATISFACTION OF SECURITY INSTRUMENT  
(G.S. 45-36.10; G.S. 45-37(a)(7))

The undersigned is now the secured creditor in the security instrument identified as follows:

Type of Security Instrument: (identify type of security instrument, such as deed of trust or mortgage)

Original Grantor(s): (Identify original grantor(s), trustor(s), or mortgagor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies), mortgagee(s), or secured party(ies) in the security instrument)

Recording Data: The security instrument is recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ or as document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County, North Carolina.

This satisfaction terminates the effectiveness of the security instrument and extinguishes the underlying obligation secured by the instrument.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]'".

SECTION 2. G.S. 45-36.21 reads as rewritten:

"§ 45-36.21. **Trustee's satisfaction of deed of trust: form.**

(a) Standard Form. – No particular phrasing is required for a trustee's satisfaction of a deed of trust. The following form, when properly completed, is sufficient to satisfy the requirements of G.S. 45-36.20:

'TRUSTEE'S SATISFACTION OF DEED OF TRUST  
(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ or as document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]'

(b) Alternate Form. – A trustee and secured creditor who would like to indicate that the underlying obligation secured by the deed of trust has been extinguished may use the following form, which, when properly completed, is also sufficient to satisfy the requirements of G.S. 45-36.20:

'TRUSTEE'S SATISFACTION OF DEED OF TRUST  
AND  
CREDITOR'S RELEASE  
(G.S. 45-36.20; G.S. 45-37(a)(7))

The undersigned is now serving as the trustee or substitute trustee under the terms of the deed of trust identified as follows:

Original Grantor(s): (Identify original grantor(s) or trustor(s))

Original Secured Party(ies): (Identify the original beneficiary(ies) or secured party(ies) in the deed of trust)

Recording Data: The deed of trust is recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ or as document number \_\_\_\_\_ in the office of the Register of Deeds for \_\_\_\_\_ County, North Carolina.

This satisfaction terminates the effectiveness of the deed of trust.

Date: \_\_\_\_\_  
(Signature of trustee or substitute trustee)

[Acknowledgment before officer authorized to take acknowledgments]

The obligation secured by the deed of trust has been extinguished.

Date: \_\_\_\_\_  
(Signature of secured creditor)

[Acknowledgment before officer authorized to take acknowledgments]'".

**SECTION 3. G.S. 14-118.1 reads as rewritten:**

**"§ 14-118.1. Simulation of court process in connection with collection of claim, demand or account.**

It shall be unlawful for any person, firm, corporation, association, agent or employee in any manner to coerce, intimidate, or attempt to coerce or intimidate any person in connection with any claim, demand or account, by the issuance, utterance or delivery of any matter, printed, typed or written, which (i) simulates or resembles a summons, warrant, writ or other court process or pleading; or (ii) by its form, wording, use of the name of North Carolina or any officer, agency or subdivision thereof, use of seals or insignia, or general appearance has a tendency to create in the mind of the ordinary person the false impression that it has judicial or other official authorization, sanction or approval. Any violation of the provisions of this section shall be a ~~Class 2 misdemeanor~~ Class 1 felony."

**SECTION 4. Article 20 of Chapter 14 of the General Statutes is amended by adding a new section to read as follows:**

**"§ 14-118.6. Filing false lien or encumbrance.**

1 (a) It shall be unlawful for any person to file in a public record or a private record  
 2 generally available to the public a false lien or encumbrance against the real or personal  
 3 property of a public officer or public employee on account of the performance of the public  
 4 officer or public employee's official duties, knowing or having reason to know that the lien or  
 5 encumbrance is false or contains a materially false, fictitious, or fraudulent statement or  
 6 representation. Any person who violates this subsection shall be guilty of a Class I felony.

7 (b) In the case of a record presented for filing, if the entity receiving the filing has a  
 8 reasonable suspicion that the lien or encumbrance is false, the entity shall not allow the lien or  
 9 encumbrance to be filed. If the filing of the lien or encumbrance is denied, the person offering  
 10 the lien or encumbrance for filing may apply to any judge of the district court in the district  
 11 where the entity is located for an order permitting filing. The judge shall order the lien or  
 12 encumbrance filed, and the entity shall file the lien or encumbrance as originally requested.  
 13 The review by the judge under this subsection is a ministerial act only, and shall not be deemed  
 14 a finding as to any underlying claim of the parties involved.

15 (c) Upon being presented with an order duly issued by a court of this State declaring  
 16 that a filed lien or encumbrance is false, and therefore null and void, the entity that received the  
 17 filing, in addition to filing the order, shall conspicuously mark on the first page of the original  
 18 record previously filed the following statement: "THE CLAIM ASSERTED IN THIS  
 19 DOCUMENT IS FALSE AND IS NOT PROVIDED FOR BY THE GENERAL LAWS OF  
 20 THIS STATE."

21 SECTION 5. G.S. 14-118.12 reads as rewritten:

22 "§ 14-118.12. Residential mortgage fraud.

23 (a) A person is guilty of residential mortgage fraud when, for financial gain and with  
 24 the intent to defraud, that person does any of the following:

- 25 (1) Knowingly makes or attempts to make any material misstatement,  
 26 misrepresentation, or omission within the mortgage lending process with the  
 27 intention that a mortgage lender, mortgage broker, borrower, or any other  
 28 person or entity that is involved in the mortgage lending process relies on it.
- 29 (2) Knowingly uses or facilitates or attempts to use or facilitate the use of any  
 30 misstatement, misrepresentation, or omission within the mortgage lending  
 31 process with the intention that a mortgage lender, borrower, or any other  
 32 person or entity that is involved in the mortgage lending process relies on it.
- 33 (3) Receives or attempts to receive proceeds or any other funds in connection  
 34 with a residential mortgage closing that the person knew, or should have  
 35 known, resulted from a violation of subdivision (1) or (2) of this subsection.
- 36 (4) Conspires or solicits another to violate any of the provisions of subdivision  
 37 (1), (2), or (3) of this subsection.
- 38 (5) Knowingly files in a public record or a private record generally available to  
 39 the public a document falsely claiming that a mortgage loan has been  
 40 satisfied, discharged, released, revoked, or terminated, or is invalid.

41 . . . . "

42 SECTION 6. G.S. 14-401.19 reads as rewritten:

43 "§ 14-401.19. Filing false security agreements.

44 It shall be unlawful for any person, firm, corporation, or any other association of  
 45 persons in this State, under whatever name styled, to present a record for filing under the  
 46 provisions of Article 9 of Chapter 25 of the General Statutes with knowledge that the record is  
 47 not related to a valid security agreement or with the intention that the record be filed for an  
 48 improper purpose, such as to hinder, harass, or otherwise wrongfully interfere with any person.  
 49 A violation of this section shall be a ~~Class 2 misdemeanor~~ Class I felony."

1           **SECTION 7.** Sections 1 and 2 of this act become effective October 1, 2012 and  
2 apply to satisfactions filed on or after that date. The remainder of this act becomes effective  
3 December 1, 2012 and applies to offenses committed on or after that date.



# HOUSE BILL 203: Mortgage Satisfaction Forms/No False Liens

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. Crawford  
**Analysis of:** PCS to First Edition  
H203-CSR-46

**Date:** June 7, 2012  
**Prepared by:** Brenda J. Carter  
Committee Counsel

**SUMMARY:** *House Bill 203 would provide for alternative mortgage satisfaction forms that allow secured creditors and trustees to state that the underlying obligation has been paid. This proposed committee substitute adds provisions that would increase the penalty for simulating court process in connection with the collection of an account, make it a Class I felony to file a false lien against a public officer or employee, provide that a person who knowingly files a document falsely claiming that a mortgage has been satisfied is guilty of residential mortgage fraud, and increase the penalty for filing false security agreements.*

**CURRENT LAW:** A satisfaction of security instrument is a document that shows that a deed of trust or mortgage has been released and the security interest is terminated. There are several different ways to record a satisfaction of a security instrument including the following: (i) satisfaction of record by the presentation of the original note and deed of trust marked paid and satisfied in full, (ii) a satisfaction of security agreement, (iii) an affidavit of satisfaction signed by an authorized satisfaction agent, and (iv) a trustee's satisfaction of deed of trust.

A recording of a satisfaction of security instrument does not by itself extinguish any liability of a person for payment or performance of the secured obligation. A recording of a trustee's satisfaction does not by itself extinguish any liability of a person for payment or performance of the secured obligation.

G.S. 45-36.11 provides a form for a satisfaction of a security interest and G.S. 45-36.21 provides a form for a trustee's satisfaction of deed of trust. The satisfaction of a security interest form states that it "terminates the effectiveness of the security instrument" and the trustee's satisfaction of deed of trust states that it "terminates the effectiveness of the deed of trust".

**BILL ANALYSIS:** Sections 1 and 2 of the bill would provide for alternative forms for a satisfaction of security instrument and a trustee's satisfaction of deed and trust. The forms would contain the same language as the ones currently in G.S. 45-36.11 and G.S. 45-36.21 but would add language that the obligation secured by the satisfaction instrument or the deed of trust has been extinguished. These alternative forms would not be mandatory and would only have to be used by secured creditors and trustees who would like to indicate that the underlying obligation secured by the satisfaction instrument or deed of trust has been extinguished.

Section 3 of the bill would increase the penalty for simulating court process in connection with the collection of an account, making it a Class I felony rather than a Class 2 misdemeanor.

Section 4 of the bill would make it a Class I felony to file a false lien against a public officer or employee on account of the person's performance of official duties. The bill provides for a notation on the face of a filed lien or encumbrance that is determined by a court to be false.

Section 5 would provide that a person who knowingly files a document falsely claiming that a mortgage has been satisfied is guilty of residential mortgage fraud, which is a Class H felony if the offense involves a single mortgage loan. An offense that involves a pattern of residential mortgage fraud would be a Class E felony.

# House PCS 203

*Page 2*

**Section 6** would increase the penalty for filing false security agreements, making it a Class I felony rather than a Class 2 misdemeanor.

**EFFECTIVE DATE:** Section 1 and 2 of the bill would become effective October 1, 2012 and would apply to satisfactions filed on or after that date. The remainder of the act would become effective December 1, 2012 and apply to offenses committed on or after that date.

*H203-SMRV-121(CSRV-46) v1*

*Drupti Chauhan of the Research Division substantially contributed to this summary.*



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 813\*  
Committee Substitute Favorable 6/1/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H813-CSRF-57 [v.2]

6/5/2012 9:19:03 AM

Short Title: Bldg. Code Inspections/Industrial Machinery.

(Public)

Sponsors:

Referred to:

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO EXPAND THE DEFINITION OF INDUSTRIAL MACHINERY EXEMPT  
3 FROM BUILDING CODE INSPECTION TO INCLUDE EQUIPMENT AND  
4 MACHINERY ACQUIRED BY STATE-SUPPORTED CENTERS PROVIDING  
5 TESTING, RESEARCH, AND DEVELOPMENT SERVICES TO MANUFACTURING  
6 CLIENTS.

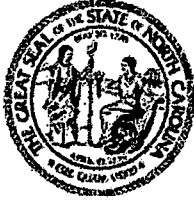
7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S.143-138(b9) reads as rewritten:  
9 "(b9) Nothing in this Article shall extend to or be construed as being applicable to the  
10 regulation of the design, construction, location, installation, or operation of industrial  
11 machinery. However, if during the building code inspection process, an electrical inspector has  
12 any concerns about the electrical safety of a piece of industrial machinery, the electrical  
13 inspector may refer that concern to the Occupational Safety and Health Division in the North  
14 Carolina Department of Labor but shall not withhold the certificate of occupancy nor mandate  
15 third-party testing of the industrial machinery based solely on this concern. For the purposes of  
16 this paragraph, "industrial machinery" means equipment and machinery used in a system of  
17 operations for the explicit purpose of producing a ~~product~~ product or acquired by a State-  
18 supported center providing testing, research, and development services to manufacturing  
19 clients. The term does not include equipment that is permanently attached to or a component  
20 part of a building and related to general building services such as ventilation, heating and  
21 cooling, plumbing, fire suppression or prevention, and general electrical transmission.

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



\* H 8 1 3 - C S R F - 5 7 - V - 2 \*



## HOUSE BILL 813: Bldg. Code Inspections/Industrial Machinery

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 6, 2012
<b>Introduced by:</b>	Reps. Howard, Starnes	<b>Prepared by:</b>	Barbara Riley
<b>Analysis of:</b>	PCS to Second Edition H813-CSRF-57		Committee Counsel

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**SUMMARY:** *House Bill 813 amends the definition of industrial machinery to include equipment and machinery acquired by State-supported centers providing testing, research, and development services to manufacturing clients.*

**CURRENT LAW:** G.S. 1443-138(b9) provides that the provisions of the building code do not apply to the regulation of the design, construction, location, installation, or operation of industrial machinery. If, however, during the building code inspection process an electrical inspector has concerns about the electrical safety of a piece of industrial machinery, the inspector may refer that concern to the Occupational Safety and Health Division at the North Carolina Department of Labor. The certificate of occupancy, however, may not be withheld nor may third party testing be mandated based solely on the inspector's concern.

Industrial machinery is defined as equipment and machinery used in a system of operations for the explicit purpose of producing a product. It does not include equipment that is permanently attached to or a component part of a building such as ventilation, plumbing HVAC, fire suppression and general electrical transmission.

**BILL ANALYSIS:** The proposed committee substitute for House Bill 813 amends G.S. 143-138(b9) to expand the definition of industrial machinery to include equipment and machinery acquired by a State-supported center providing testing, research, and development services to manufacturing clients.

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

H813-SMRF-135(CSRF-57) v2

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 910

Short Title: Sale of a Child/Felony Offense. (Public)

Sponsors: Senators Atwater (Primary Sponsor); D. Berger, Bingham, Brock, East, and McKissick.

Referred to: Rules and Operations of the Senate.

May 30, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE CRIMINAL OFFENSE OF UNLAWFUL SALE, SURRENDER,  
3 OR PURCHASE OF A CHILD; TO APPROPRIATE FUNDS TO THE DEPARTMENT  
4 OF PUBLIC SAFETY TO ASSIST WITH THE COST OF INCREASED PRISON BED  
5 CAPACITY; AND TO APPROPRIATE FUNDS TO THE NORTH CAROLINA  
6 CONFERENCE OF DISTRICT ATTORNEYS TO HELP EDUCATE INVESTIGATORS  
7 AND DISTRICT ATTORNEYS REGARDING THIS TYPE OF CRIMINAL ACTIVITY  
8 AND THE LEGAL RESOURCES AVAILABLE TO FIGHT THESE CRIMES AND TO  
9 CONDUCT A STUDY TO DETERMINE WHAT OTHER MEASURES MAY BE  
10 NEEDED TO STOP THIS TYPE OF CRIMINAL ACTIVITY.

11 The General Assembly of North Carolina enacts:

12 SECTION 1. Article 10A of Chapter 14 of the General Statutes is amended by  
13 adding a new section to read:

14 "§ 14-43.14. Unlawful sale, surrender, or purchase of a child.

15 (a) A person commits the offense of unlawful sale, surrender, or purchase of a child  
16 when that person participates in any of the following: the acceptance, solicitation, offer,  
17 payment, or transfer of any compensation, in money, property, or other thing of value, at any  
18 time, by any person in connection with the acquisition or transfer of the legal or physical  
19 custody or adoption of a minor child, except as ordered by the court or as authorized pursuant  
20 to G.S. 48-10-103.

21 (b) A person who violates this section is guilty of a Class D felony and shall pay a  
22 minimum fine of ten thousand dollars (\$10,000). For each subsequent violation, a person is  
23 guilty of a Class D felony and shall pay a minimum fine of fifty thousand dollars (\$50,000).

24 (c) A child whose parent, guardian, or custodian has sold or attempted to sell a child in  
25 violation of this Article is a dependent, neglected, and abused child as defined by G.S. 7B-101.  
26 The court may place the child in the custody of the Department of Social Services or with such  
27 other person as is in the best interest of the child.

28 (d) A violation of this section is a lesser included offense of G.S. 14-43.11."

29 SECTION 2. G.S. 7B-101(1) reads as rewritten:

30 "(1) Abused juveniles. – Any juvenile less than 18 years of age whose parent,  
31 guardian, custodian, or caretaker:

32 a. Inflicts or allows to be inflicted upon the juvenile a serious physical  
33 injury by other than accidental means;

34 b. Creates or allows to be created a substantial risk of serious physical  
35 injury to the juvenile by other than accidental means;



- 1 c. Uses or allows to be used upon the juvenile cruel or grossly  
2 inappropriate procedures or cruel or grossly inappropriate devices to  
3 modify behavior;
- 4 d. Commits, permits, or encourages the commission of a violation of  
5 the following laws by, with, or upon the juvenile: first-degree rape,  
6 as provided in G.S. 14-27.2; rape of a child by an adult offender, as  
7 provided in G.S. 14-27.2A; second degree rape as provided in  
8 G.S. 14-27.3; first-degree sexual offense, as provided in  
9 G.S. 14-27.4; sexual offense with a child by an adult offender, as  
10 provided in G.S. 14-27.4A; second degree sexual offense, as  
11 provided in G.S. 14-27.5; sexual act by a custodian, as provided in  
12 G.S. 14-27.7; sale, surrender, or purchase of a child, as provided in  
13 G.S. 14-43.14; crime against nature, as provided in G.S. 14-177;  
14 incest, as provided in G.S. 14-178; preparation of obscene  
15 photographs, slides, or motion pictures of the juvenile, as provided in  
16 G.S. 14-190.5; employing or permitting the juvenile to assist in a  
17 violation of the obscenity laws as provided in G.S. 14-190.6;  
18 dissemination of obscene material to the juvenile as provided in  
19 G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating  
20 material harmful to the juvenile as provided in G.S. 14-190.14 and  
21 G.S. 14-190.15; first and second degree sexual exploitation of the  
22 juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17;  
23 promoting the prostitution of the juvenile as provided in  
24 G.S. 14-190.18; and taking indecent liberties with the juvenile, as  
25 provided in G.S. 14-202.1;
- 26 e. Creates or allows to be created serious emotional damage to the  
27 juvenile; serious emotional damage is evidenced by a juvenile's  
28 severe anxiety, depression, withdrawal, or aggressive behavior  
29 toward himself or others; or
- 30 f. Encourages, directs, or approves of delinquent acts involving moral  
31 turpitude committed by the juvenile."

32 **SECTION 3.** G.S. 14-208.6(5) reads as rewritten:

33 "(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree  
34 rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second  
35 degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex  
36 offense with a child; adult offender), G.S. 14-27.5 (second degree sexual  
37 offense), G.S. 14-27.5A (sexual battery), G.S. 14-27.6 (attempted rape or  
38 sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain  
39 victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person who is  
40 13-, 14-, or 15-years-old where the defendant is at least six years older),  
41 G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude),  
42 G.S. 14-43.14 (sale, surrender, or purchase of a child), G.S. 14-178 (incest  
43 between near relatives), G.S. 14-190.6 (employing or permitting minor to  
44 assist in offenses against public morality and decency), G.S. 14-190.9(a1)  
45 (felonious indecent exposure), G.S. 14-190.16 (first degree sexual  
46 exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation  
47 of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor),  
48 G.S. 14-190.18 (promoting prostitution of a minor), G.S. 14-190.19  
49 (participating in the prostitution of a minor), G.S. 14-202.1 (taking indecent  
50 liberties with children), G.S. 14-202.3 (Solicitation of child by computer or  
51 certain other electronic devices to commit an unlawful sex act),

1 G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-318.4(a1)  
2 (parent or caretaker commit or permit act of prostitution with or by a  
3 juvenile), or G.S. 14-318.4(a2) (commission or allowing of sexual act upon a  
4 juvenile by parent or guardian). The term also includes the following: a  
5 solicitation or conspiracy to commit any of these offenses; aiding and  
6 abetting any of these offenses."

7 **SECTION 4.** G.S. 48-10-102(b) reads as rewritten:

8 "(b) A—Unless the conduct is covered under some other provision of law providing  
9 greater punishment, a person who violates this section is guilty of a Class 1 misdemeanor. For  
10 each subsequent violation, a person is guilty of a Class H felony which may include a fine of  
11 not more than ten thousand dollars (\$10,000)."

12 **SECTION 5.(a)** There is appropriated from the General Fund to the Department of  
13 Public Safety the sum of twenty-five thousand dollars (\$25,000) for the 2012-2013 fiscal year  
14 to help cover the cost for increased bed capacity in the State prison system.

15 **SECTION 5.(b)** There is appropriated from the General Fund to the North  
16 Carolina Conference of District Attorneys the sum of five thousand dollars (\$5,000) for the  
17 2012-2013 fiscal year to be used for the following: (i) to educate investigators and district  
18 attorneys about the new law and how it can be used to help stop criminal activities that involve  
19 the sale of children, and (ii) to conduct a study of additional measures that may be taken to stop  
20 this type of criminal activity. In its study, the North Carolina Conference of District Attorneys  
21 shall consider the measures taken by other states to address this type of criminal activity. The  
22 North Carolina Conference of District Attorneys shall submit a final written report of its  
23 findings and recommendations, including any additional legislative proposals, regarding this  
24 issue to the 2013 General Assembly by January 30, 2013.

25 **SECTION 6.** Section 5 and Section 6 of this act become effective July 1, 2012.  
26 The remainder of this act becomes effective December 1, 2012, and applies to offenses  
27 committed on or after that date.



## SENATE BILL 910: Sale of a Child/Felony Offense

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 7, 2012
<b>Introduced by:</b>	Sen. Atwater	<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	First Edition		Committee Counsel

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**SUMMARY:** *Senate Bill 910 would create the criminal offense of unlawful sale, surrender, or purchase of a child, appropriate funds to the Department of Public Safety to assist with the cost of increased prison bed capacity, appropriate funds to the NC Conference of District Attorneys to help educate investigators and District Attorneys regarding this type of criminal activity and the legal resources available to fight these crimes, and conduct a study to determine what other measures may be needed to stop this type of criminal activity.*

### **BILL ANALYSIS:**

**Section 1** would create a new G.S. 14-43.14, which would create the new criminal offense of unlawful, sale, surrender, or purchase of a child. A violation of the offense would be a Class D felony with a minimum \$10,000 fine for a first offense and \$50,000 fine for a second or subsequent offense. A child whose parent or guardian has sold or attempted to sell the child is declared a dependent, neglected, and abused child and may be placed in the custody of DSS. A violation of this offense is a lesser included offense of Human Trafficking (G.S. 14-43.11).

**Section 2** would amend the definition of "abused juvenile" to include a juvenile whose parent or guardian has committed or attempted to commit a violation of G.S. 14-43.14.

**Section 3** would amend the definition of "sexually violent offense" as it applies to the sex offender registration statutes, to include a violation of G.S. 14-43.14. This will require a person who is convicted of a violation of G.S. 14-43.14 to register as a sex offender.

**Section 4** would amend the current statute providing a criminal penalty for making or receiving unlawful payments for adoption of a child to provide that the conduct will be penalized by G.S. 14-43.14 if it is applicable.

**Section 5** would appropriate \$25,000 from the General Fund to the Department of Public Safety to help cover the cost for increased bed capacity in the State prison system. This section would also appropriate \$5,000 from the General Fund to the Conference of District Attorneys to educate investigators and DAs about the new law, and to conduct a study of additional measures that may be taken to stop this type of criminal activity. The Conference shall submit a final written report of its findings and recommendations by January 30, 2013.

**EFFECTIVE DATE:** Section 5 & the effective date section become effective July 1, 2012. The remainder of this act becomes effective December 1, 2012, and applies to offenses committed on or after that date.

S910-SMSA-108(e1) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 1065

Short Title: Use Moore School Buses for 2014 US Open. (Local)

Sponsors: Representatives Boles and Hackney (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Education.

May 23, 2012

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO (I) PERMIT  
2 THE USE OF PUBLIC SCHOOL BUSES TO SERVE THE TRANSPORTATION NEEDS  
3 OF THE 2014 U.S. OPEN GOLF TOURNAMENT AND (II) BEGIN THE 2013-2014  
4 SCHOOL YEAR ONE WEEK EARLIER.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Notwithstanding any other provision of law, the Moore County  
8 Board of Education may permit the use and operation of public school buses as the Board  
9 deems necessary from June 9, 2014, through June 22, 2014, for the transportation needs of  
10 persons associated with the U.S. Open golf tournament to be held in Moore County.

11 State funds shall not be used for the use and operation of buses under this act.

12 Neither the State of North Carolina nor the Moore County Schools shall incur any  
13 liability for any damages resulting from the use and operation of buses under this act.  
14 Pinehurst, LLC, shall carry liability insurance covering the use and operation of buses under  
15 this act.

16 **SECTION 2.** The Moore County Board of Education may begin the 2013-2014  
17 school year one week earlier than authorized by G.S. 115C-84.2 to permit the U.S. Open to use  
18 school facilities from June 9, 2014, through June 22, 2014, without disruption of student and  
19 staff activities.

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



\* H 1 0 6 5 - V - 1 \*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Thursday, June 07, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

S.B.	910	Sale of a Child/Felony Offense.	
		Sequential Referral:	None
		Recommended Referral:	None
H.B.	1065	Use Moore School Buses for 2014 US Open.	
		Sequential Referral:	None
		Recommended Referral:	None

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

H.B.	203	Show Mortgage Payoff on Satisfaction Filing.	
		Draft Number:	11368
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO  
SENATE COMMITTEE SUBSTITUTE BILL**

H.B.(CS #1)	813	ESC/Jobs Reform.	
		Draft Number:	90251
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 4

Committee Clerk Comments:



# SENATE PAGES ATTENDING

COMMITTEE: Rules ROOM: 1027

DATE: 6-7 TIME: Noon

**PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!!**

Page Name	Hometown	Sponsoring Senator
<sup>1</sup> Taylor Parrish	Angier	Rouzer
<sup>2</sup> McKaya McNeill	Lake Waccamaw	Bill Rabon
<sup>3</sup> Shelby Corbett	Whiteville	Bill Rabon
<sup>4</sup> <del>Kate F. [unclear]</del>	<del>[unclear]</del>	<del>[unclear]</del>
<sup>5</sup> <del>[unclear]</del>	<del>[unclear]</del>	<del>[unclear]</del>
<sup>6</sup> Meghan Breden	Wilkesboro	Dan Soucek
<sup>7</sup> <del>[unclear]</del>	<del>[unclear]</del>	<del>[unclear]</del>
<sup>8</sup> Catherine Blalock	Asheville	Senator Nesbitt
<sup>9</sup> Davis McKinney	Spurce Pine	Hise
<sup>10</sup> Brock McKinney	Arden	Tom Apodaca

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 19, 2012


The Committee on Rules and Operations of the Senate met on June 19, 2012 at 9:00 a.m. in room 1027 of the Legislative Building. Twelve members of the committee were present. Senator Apodaca presided.

Senator Apodaca introduced the pages and sergeant-at-arms assisting with the committee.

Senator Apodaca addressed the committee with a statement of the objective of our next two meetings. This is attachment A of these minutes. Senator Rabon gave the history of the Transportation issue the committee would be handling.

**SENATE JOINT RESOLUTION – 955 – A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2011 REGULAR SESSION OF THE GENERAL ASSEMBLY –** The Proposed Committee Substitute was brought before the committee, but no vote was taken.

The meeting adjourned at 9:15 a.m.



\_\_\_\_\_  
Senator Tom Apodaca, Chairman



\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant

Senator Tom Apodaca

Rules Committee Meeting at 9:00 AM

June 19, 2012

- This matter came to my attention upon my arrival in Raleigh early yesterday morning.
- As the members of the Committee know, the Senate considered the budget bill on Wednesday and Thursday of last week.
- One of the more contentious issues that came up during debate on Wednesday and Thursday concerned transportation funding.
- Specifically, two highway projects—the Garden Parkway in Gaston County and the Mid-Currituck Bridge at the coast—were the subject of debate on Wednesday and a proposed amendment by Senator Stan White on Thursday.
- It has come to my attention that two letters bearing the purported signature of Jim Trogdon were presented on the Senate floor as evidence that the Department of Transportation had changed its position with respect to the need for funding in this fiscal year for the Garden Parkway and the Mid-Currituck Bridge.
- Later that afternoon, two more letters were released that retracted the letters that had been discussed on the Senate floor. The retraction letters specifically disclaimed Mr. Trogdon's approval or consent to the letters discussed on the Senate floor.

- Those simple facts, in my mind, warrant this Committee's inquiry into the integrity of information provided to the Senate as it goes about my business.
- This is simply an inquiry. We will go where the facts lead us.
- It should not be seen as a reflection on any particular DOT official. Specifically, General Jim Trogdon is one of the finest public servants we have in this State. In conducting this inquiry, we in no way question the integrity of Jim Trogdon; in fact, as I understand the facts, they are a testament to the honor we have come to know from him.
- At this time, I am going to invite Senator Bill Rabon to walk the Committee through the facts as we understand them.

[After Rabon makes his presentation....you might make the following statements]

- Based on the presentation we have had today, it is the opinion of the chair that the Department of Transportation and the Governor's Office should be given an opportunity to explain how these events occurred.
- As such, later this morning, I will formally request in writing that the Department of Transportation designate the appropriate official to come before this committee at 9:00 AM tomorrow to

explain these events and answer questions from the Committee. Additionally, I will make a similar request to have an official from the Governor's Office appear at 9:00 AM on Thursday before this Committee.

- This situation is serious enough that it is important that we neither overreact nor under react. Accordingly, I look forward to hearing from DOT tomorrow and the Governor on Thursday.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE JOINT RESOLUTION 955  
PROPOSED COMMITTEE SUBSTITUTE S955-PCS35388-RW-82

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Sponsors:

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Referred to:

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June 4, 2012

1 A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2011  
2 REGULAR SESSION OF THE GENERAL ASSEMBLY.

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

4 SECTION 1. When the Senate and the House of Representatives, constituting the  
5 2011 Session of the General Assembly, adjourn on Saturday, June 30, 2012, they stand  
6 adjourned sine die.

7 SECTION 2. This resolution is effective upon ratification.



VISITOR REGISTRATION SHEET

~~Senate Pensions & Retirement and Aging~~

SENATE RULES

6-19-12

Tuesday, June 12, 2012

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Matt Harrell	NCSBA
Leanne Bunnie	NCSBA
Ben Schumberg	NCSBA
BOBBY LEWIS	NCDOT
Paul M... ..	NCDOT
Ellis Powell	CAPA
Christie Barlow	CAPA
Daniel Amburn	NERMA
Ken Melton	K.M.A.
Melanie Soler	BCR
Ruth ... ..	NCA SA

VISITOR REGISTRATION SHEET

SENATE RULES

6-19-12

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Paul Meyer	R. Clark
PAUL MEYER	<del>Paul Meyer</del> NCLM
Dave Foster	CLT
Jackie	ASK
John Metcalf	Policy Group
W. Mulvill	NEICU
Mark Fleming	work for Devin
Mari Smith	work for Mark
Commander Dixon	Sen. Hise's Office
Shelley Carver	Sen. Hise
Amy McCorkle	NC BEV



VISITOR REGISTRATION SHEET

Senate Rules  
Name of Committee

6-19-12  
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Erica Nelson	NCHA
Suzanne Puri	NC GO
Alissa Willett	NCACC
Jim Crowl	NCBA
Sarah Wolfe	MWC
Henry Hutep	N.C.B.A.
Chris A. Nichols	Chris A. Nichols, PLLC
Cynthia Bennett	Christian Science Com. on Publications
Mary Madigan Asbill	SELC
Crystal Collins	NCTA
Ife Cashion	NC Chamber

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE ON RULES AND OPERATIONS OF THE SENATE

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TRANSCRIPT OF THE PROCEEDINGS

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In Raleigh, North Carolina  
Wednesday, June 20, 2012, 9:00 a.m.  
Reported by Sarah A. Bowers

Worley Reporting  
P.O. Box 91447  
Raleigh, NC 27675  
919-870-8070

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/20/12 session

2

1           SENATOR APODACA: Good morning, everyone.  
2           Let's come to order. Today, we are lucky to  
3           have six pages with us. Raise your hand when  
4           I call your name. David Stone, from Monroe.  
5           Where's David? We don't -- are they here?  
6           Probably in the back. Okay. David, welcome.  
7           Holt Evans, from Wilmington, welcome. Andrew  
8           Reeve, from New Bern. Where's Andrew? In the  
9           back there? Welcome. Martin -- Martin, are  
10          you here?

11          SENATOR NESBITT: Yes, I am.

12          SENATOR APODACA: No. Lord, have mercy.  
13          There are two of them. How about -- how about  
14          the one that's a little younger, from Sanford?  
15          Martin, what's your last name? Okay. Thank  
16          you, Martin. You didn't have my wife for  
17          handwriting in third grade.

18          Darby Harriman, welcome. And Erin Jones.  
19          Erin, welcome. And Senator Nesbitt, we're  
20          glad you're with us today, too. Thank you.

21          Okay, members. We've got quite a few  
22          things to do today. We're going to start off  
23          in continuation of yesterday, and then we're  
24          going to move on and handle a couple of bills  
25          we need to get done and get moving.

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/20/12 session

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1           As you know, we opened an inquiry  
2           yesterday into the Senate's receipt of several  
3           letters from the Department of Transportation  
4           regarding funding for two particular highway  
5           projects during this fiscal year. Copies of  
6           those letters were distributed to the  
7           committee yesterday. We also heard yesterday  
8           from Senator Rabon regarding the understanding  
9           of relevant events. Today, at my invitation,  
10          we have a representative of the Department of  
11          Transportation here to explain the  
12          department's understanding of the same  
13          sequence of events.

14                 With that, I invite General Jim Trogdon  
15                 of the -- Chief of Operations of the  
16                 Transportation Department to provide his  
17                 understanding of the events. Mr. Trogdon,  
18                 welcome.

19                         SENATOR NESBITT: Mr. Chairman, Mr.  
20                         Chairman?

21                         SENATOR APODACA: Yes, sir. Senator  
22                         Nesbitt?

23                         SENATOR NESBITT: When am I going to get  
24                         an opportunity to tell the sequence of events  
25                         on the floor?

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1                   SENATOR APODACA: We'll let you read that  
2                   in probably at the end of the meeting or  
3                   before we get to the bills. But we want to  
4                   get to Mr. Trogdon first. Thank you.

5                   MR. TROGDON: All right. Yes. Mr.  
6                   Chairman and members of the committee, thank  
7                   you for the opportunity to come. I wanted to  
8                   first start out with just some brief comments.

9                   Since I came back to the Department of  
10                  Transportation in 2009, our -- our objectives  
11                  and our mission has been to restore trust and  
12                  confidence in DOT, to be the very best  
13                  stewards of our existing resources that we  
14                  could, and then to build a vision and a plan  
15                  for transportation for the future. And as I  
16                  understand it, not just a DOT plan, but a plan  
17                  for North Carolina that includes North  
18                  Carolina.

19                  Since then, we worked very hard to deal  
20                  with members in both chambers and both aisles  
21                  in an open and transparent manner. We have  
22                  always worked to be factual and forthright to  
23                  provide the best information for decision  
24                  making. And with the Executive Order No. 2,  
25                  which directed us to remove politics from

1 transportation so all voices would be heard,  
2 we have worked hard to make sure our decisions  
3 are made systematically and data-driven so  
4 that everyone is treated fairly and  
5 consistently.

6 Last week, I found us in an unfortunate  
7 situation. However, I saw misinformation and  
8 I corrected it. And where I saw wrong, I  
9 fixed it. And I will be glad to cover what I  
10 saw as the sequence of events, Mr. Chairman.

11 SENATOR APODACA: Feel free to.

12 MR. TROGDON: The -- I think it first was  
13 initiated with a letter that I had of June 8th  
14 in the response to the need to generate  
15 options for motor fuels revenue shortfalls. I  
16 had a high -- very high degree of certainty  
17 that funds on those two projects in  
18 particular, Mid-Currituck and Garner Parkway,  
19 would not be executed within the next twelve  
20 months because of a variety of issues, one  
21 being potential litigation.

22 So I published that memo with that high  
23 degree of certainty. I made sure in there  
24 that it wasn't commenting on the quality of  
25 the project. It was, "Here's where we see us

1           in the delivery process and here's what funds  
2           I anticipated would be needed on July 1 of  
3           2013."

4           We received correspondence -- I received  
5           correspondence on June 12th from Pryor Gibson,  
6           from Senator White, and Representative Current  
7           with concerns, and he asked me to respond on  
8           behalf of the Governor. Under my direction,  
9           the staff drafted a response. And based on  
10          Mr. Gibson's request, sent him a copy as well  
11          as a copy of the draft to the Governor's  
12          communication office. The communication  
13          office, that same day, had no recommended  
14          changes.

15          The very next morning, which was  
16          Thursday, the 14th, I departed on military  
17          duty at 4:30 a.m. for Charlotte. I arrived in  
18          Charlotte for an exercise there at 8 a.m.  
19          Just before 9 a.m., I got a message from my  
20          administrative assistant that Mr. Gibson had  
21          edits. I requested that she work with Deputy  
22          Secretary Coward on the proposed changes, that  
23          I would be unavailable for the next few hours.  
24          The exercise lasted from 9 a.m. to 12 a.m. --  
25          or, 12 noon.

1           In the meantime, while I was in the  
2           exercise, what occurred in my office was about  
3           between 9:30 and 10:30. The draft edits  
4           arrived that were presented to the staff, and  
5           they were presented as a factual statement  
6           reviewed by the Governor's staff and  
7           attorneys, and must be completed, and this  
8           letter must be sent by 10:45.

9           The document was originally signed by the  
10          Department Secretary for me, or was proposed  
11          to be signed by her for me; however, Mr.  
12          Gibson stated that it had to come from my  
13          signature. Letters were then digitally  
14          signed, and Mr. Gibson took four copies that  
15          were made.

16          The tabletop exercise did end at 12. And  
17          at 12:01, between 12:20, I had found out that  
18          I received a large number of voicemail and one  
19          critical e-mail from my administrative  
20          assistant. I responded to the administrative  
21          assistant on what I saw was the problem with  
22          the letters as drafted. Between 1 and 2:30, I  
23          was on the road returning to Raleigh, and  
24          called critical individuals on my staff to get  
25          an assessment on what happened while I was in



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1 the exercise. And at 2 o'clock, I called Mr.  
2 Gibson and I relayed my concerns with the  
3 intent to recall the letters.

4 I arrived back at the office at 4 p.m.,  
5 assessed the situation further, and drafted  
6 and issued the recalled memos at 5 p.m. And  
7 that's my understanding and my testimony today  
8 on the events as they occurred.

9 SENATOR APODACA: Mr. Trogdon, thank you.  
10 If I might, we have these here, the letters  
11 you're referring to. This letter, Exhibit 2,  
12 to Senator White, and Exhibit 3 to  
13 Representative Current. So that is not your  
14 handwritten signature; is that right?

15 MR. TROGDON: Those are -- those digital  
16 signatures. Yes, sir.

17 SENATOR APODACA: Okay. All right.  
18 Thank you. May I ask you another question,  
19 Mr. Trogdon, if you don't mind?

20 MR. TROGDON: Yes, sir.

21 SENATOR APODACA: You have been so  
22 cooperative. I appreciate your  
23 straightforwardness. Can you provide us with  
24 copies of the drafts that were circulated? I  
25 think I saw some in the newspaper; the other

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1           day, and I wondered if we could perhaps get  
2           those here at this meeting, or at a future  
3           meeting?

4           MR. TROGDON: Yes, sir.

5           SENATOR APODACA: Okay. What I'd like to  
6           do is get copies of those to members, and  
7           we'll enter them into the record.

8           MR. TROGDON: Yes, sir.

9           SENATOR APODACA: And then, we'll go to  
10          the general for questions, if we can do that,  
11          because we have got other business we need to  
12          do today. I think someone's testimony also  
13          said maybe Mr. Gibson could shed some light.  
14          He saw me this morning and said he would be  
15          with us tomorrow morning. So I think it would  
16          be best if we hear the Governor's office take  
17          on this, and then we'll proceed down the road,  
18          if that's all right.

19          And I sure appreciate you for coming this  
20          morning, and thank you.

21          MR. TROGDON: Yes, sir.

22          SENATOR APODACA: You're dismissed, as  
23          you say in the military. And we'll get back  
24          with you. Thank you.

25          All right, members. Tomorrow morning, we

1 will hear from the Governor's office.

2 Senator Nesbitt, if you want to enter in  
3 something in the record now, or would you  
4 rather wait until after we hear from the  
5 Governor's office?

6 SENATOR NESBITT: No. I'm ready to get  
7 it on the record now. There were -- there was  
8 bad information given out yesterday to the  
9 press, and I think we need to clear it up as  
10 quickly as we can.

11 SENATOR APODACA: You have the floor,  
12 sir.

13 SENATOR NESBITT: This has to do with  
14 members. It doesn't have to do with Mr.  
15 Trogdon or Mr. Gibson. The bill which you  
16 passed out at the Senate took the money out of  
17 Mid-Currituck Bridge into future years  
18 forever. It reduced that appropriation \$15  
19 million. We repeatedly tried to tell them  
20 that on the floor, that that's what they were  
21 doing.

22 The amendment that Stan White offered was  
23 not to put the money back in for the first  
24 year, which is what all this brouhaha is  
25 about; it was an attempt to fix the future

1           years, after '13, to put the appropriation  
2           back in for \$28 million.

3                   And the whole scenario seems to be  
4           predicated on the fact that Senator White was  
5           trying to put the money back in for this year;  
6           that did not occur. And the budget that went  
7           out -- I spoke with you. And the budget that  
8           went out of here, you thought and I think  
9           everybody else thought, that that money was in  
10          for future years; it was not. And that was  
11          what was trying to be repaired.

12                   Senator White did not try to get a letter  
13          to put it back in for 2013 because he  
14          didn't -- he wasn't trying to. And we could  
15          not get that communicated to the chairs on the  
16          floor, as hard as we tried. Referenced to the  
17          letter on the floor was the original letter  
18          from Mr. Trogon that said he did need the  
19          money starting with '14, '13-'14. And that's  
20          what we were trying to impress upon the chairs  
21          on the floor. I never saw another letter from  
22          Mr. Trogon until all this brouhaha started.  
23          That letter wasn't sent to me; it was sent to  
24          somebody else. I never saw it.

25                   And we were simply trying to put the

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1 money back in, that they had taken out forever  
2 more from the Mid-Currituck Bridge, which the  
3 leadership assured me they weren't trying to  
4 do. Thank you, sir.

5 SENATOR APODACA: Thank you, Senator  
6 Nesbitt.

7 Okay. Let's bring some other business  
8 before us now. Senator Hartsell, are you  
9 present? Please step forward. Let's bring  
10 House Bill 1075 before us. We have a proposed  
11 committee substitute. Senator Brown moves we  
12 bring it forth for discussion purposes only.  
13 All in favor, say, "Aye."

14 (Voice vote.)

15 SENATOR APODACA: Bill is before us.

16 Senator Hartsell. Senator Hartsell sends  
17 forth an amendment which amends the bill on  
18 Page 2, Line 44, by rewriting the line to  
19 read, "Approval from the secretary." Does  
20 anybody need to see this, or can we see it  
21 there?

22 SENATOR KINNAIRD: What did you say it  
23 read?

24 SENATOR APODACA: Page 2, Line 44. By  
25 rewriting the line to read, "Approval from the

1           secretary."

2                   SENATOR HARTSELL: It eliminates the  
3           date.

4                   SENATOR APODACA: Senator Hartsell will  
5           explain the amendment.

6                   SENATOR HARTSELL: The amendment simply  
7           eliminates the date.

8                   SENATOR APODACA: Any questions on the  
9           amendment? Senator Nesbitt.

10                   SENATOR NESBITT: Can you explain what  
11           the paragraph does and why it doesn't need the  
12           date?

13                   SENATOR HARTSELL: Sure. It's in the  
14           context -- let me just -- I'll just explain  
15           the whole thing.

16                   SENATOR APODACA: Please, feel free.

17                   SENATOR HARTSELL: The bill that you have  
18           before you is 1075 as it appeared on the floor  
19           yesterday with amendments that I was  
20           contemplating running. In fact, they planned  
21           to run that day. And that's -- that's the  
22           committee sub.

23                   The reason for the date change is this:  
24           the amendment would have and -- and in fact,  
25           there was a section added to 1075 in mental

1 health relating to, as -- as you may recall,  
2 Senator Nesbitt, authorizing certain entities  
3 to form mental health authorities. What this  
4 bill does is take that section out. It does  
5 not authorize mental health authorities, but  
6 in its place gives an operational mechanism  
7 whereby counties who form a catchment area can  
8 unanimously agree in that catchment area to a  
9 differing form of structure than is identified  
10 in the bill. They must do so unanimously.

11 And what this does is say -- and there  
12 are only certain types of catchment areas,  
13 catchment areas of 1.25 million people or  
14 more. The -- and the reason for eliminating  
15 the date is, in case there are subsequent  
16 entities -- there are only two who meet that  
17 qualification now. And what the provision  
18 does is say, those catchment areas, if they  
19 somehow want to merge at some later point,  
20 then they can take advantage of an alternative  
21 structure.

22 But it is subject to agreement of all the  
23 counties in the area, and the approval of the  
24 secretary. And this -- in the event that  
25 there are these kind of combinations in the

1 future, then the same thing would apply if, in  
2 fact, folks choose to do it.

3 There are currently two -- two catchment  
4 areas that qualify under this circumstance.  
5 One is the PBH catchment area, which is 15  
6 counties now. And all of their -- the county  
7 commissions in that catchment area have agreed  
8 to a -- in effect, a formal structure for  
9 their entity. And so, it would take that.  
10 And as you know, PBH has actually operated  
11 under the waiver process for about five or six  
12 years.

13 The other that qualifies is Wake County.  
14 Well, Wake and Durham together, with  
15 ultimately Cumberland, as I recall, and  
16 Johnston, which would ultimately be the  
17 largest. They have already entered into a --  
18 essentially, an agreement setting up the  
19 structure of their proposed board, having a  
20 number of people who they were going to  
21 appoint to and whatever. And given the fact  
22 that they have -- and they have existing  
23 relationships with -- not just the counties,  
24 but with some of the hospital facilities and  
25 others.



1           They actually requested this, this  
2           opportunity to restructure their governance in  
3           this fashion. So in effect, what it does is  
4           permit the modification now or, in the future,  
5           if you reach this catchment area size, it  
6           makes it essentially a local bill, in effect,  
7           because the localities who are involved have  
8           to agree to it and it also has to be approved  
9           by the secretary.

10           There are no other catchment areas that  
11           meet this criteria at the moment. This -- the  
12           whole situation is in transition. I don't  
13           think there's any question about that. But in  
14           the event that -- and there is a provision in  
15           the base bill that says, "If some of these  
16           fail and the secretary has to join them, then  
17           they will remain public entities relating to  
18           those catchment areas and such."

19           So in the event that there are further  
20           combinations that are actually voluntary and  
21           the folks agree to it and the secretary  
22           approves it, then there's opportunity to  
23           modify; support structure would be available.  
24           It's not necessary now, but that's -- that's  
25           the rationale for it.

1                   SENATOR APODACA: Okay. Let's do some  
2 quick housekeeping first. We have the  
3 amendment here removing the date. Senator  
4 Jackson moves for its approval. Any  
5 discussion on the amendment? Okay. All in  
6 favor of the amendment, say "Aye."

7                   (Voice vote.)

8                   SENATOR APODACA: Opposed, "No."  
9 Okay. The amendment passes.  
10 Now, we have the bill before us.  
11 Questions for Senator Hartsell? Do you want  
12 to explain some more?

13                   SENATOR HARTSELL: Okay. Let me -- one  
14 other thing that's being -- the mental health  
15 committee actually went through three sessions  
16 dealing with the base bill that included this  
17 public authority provision that is now out.  
18 In its place, we have this sort of voluntary  
19 agreement in case, in -- under certain  
20 circumstances.

21                   There's one additional provision that is  
22 in this. The -- as you may recall, Senator  
23 Jackson, the provision of who gets to approve  
24 salaries is identical to what was approved in  
25 the committee. The provision with regard to a

1 hospital authority or a hospital assoc- -- or,  
2 non-voting membership is in the bill.

3 The one addition to it besides this  
4 modification with regard to alternate  
5 structures is an expressed provision, a very  
6 expressed provision from Chapter 108 requiring  
7 any entity, whatever model, to undergo -- as  
8 you may recall, there's been some dispute  
9 relating to regulatory reform in the  
10 application.

11 We expressly identify that any of these  
12 entities is subject to the OAH and grievance  
13 procedures that exist in current law, and we  
14 amend Chapter 108 to do that. So that is  
15 expressly in there, in no uncertain terms.

16 SENATOR APODACA: Senator Brown?

17 SENATOR BROWN: Senator Hartsell, there's  
18 been a lot of consolidation of these LMEs that  
19 we've -- in the past couple of years. Can you  
20 give us a little history -- I know some of the  
21 counties have struggled with some of these  
22 consolidations. Just kind of clear that up  
23 for me a little bit, if you could.

24 SENATOR HARTSELL: Okay. You may recall,  
25 last year -- and there's a long history

1 associated with this. There is a -- and  
2 Senator Nesbitt is also quite familiar with  
3 all of these circumstances.

4 This is the current iteration of mental  
5 health -- or, actually, delivery systems that  
6 we have. They started out pretty much as  
7 county entities that delivered. Then there  
8 were combinations that delivered. And then,  
9 we had -- and essentially, most of these were  
10 combination -- essentially, fee-for-service  
11 type operations.

12 Then about six or seven years ago -- and  
13 there were -- I think there were probably 20  
14 to 30 LMEs. It got reduced to fewer than  
15 that. About six or six years ago, the  
16 Piedmont Behavioral Health catchment area  
17 tried something new, in effect, a -- what is  
18 in effect a new managed care waiver. It's  
19 called 1915(b)(c) waiver. It initiated  
20 managed care in the catchment area of -- of  
21 PBH, which was Cabarrus, Rowan, Stanly,  
22 Union, and Davidson Counties.

23 In the course of -- over the course of  
24 time, as we all know, there had been -- in  
25 their managed care area, they reasonably --

1 I'm going to say they -- they did a pretty  
2 good job of managing the care and the cost and  
3 that sort of thing in those areas. There  
4 were, however, excesses in certain programs.  
5 Not altogether, in other areas of the state.  
6 And then, there were also voluntary  
7 combinations in other areas, as well.

8 In the last General Ass- -- at the very  
9 beginning, about three or four years ago,  
10 there were other area-authority type  
11 operations who commenced wanting -- I mean,  
12 there was an effort made to sort of replicate  
13 the PBH managed care model in this area.  
14 There was authorization to do a couple of  
15 additional managed care 1915(b)(c) waiver  
16 areas, one, I think, in Western Highlands, one  
17 in Mecklenburg pursuant to another study and  
18 some other things that had been done.

19 Then, in the last General Assembly, we  
20 had opted legislation that would require  
21 managed care and essentially the extension of  
22 these kinds of operations throughout the state  
23 in some kind of sequential model with  
24 multiple -- I think we got down to about 11  
25 different LMEs, something along those lines,

1 various incendiary areas. Whatever that is  
2 in place. That is progressing. There are now  
3 several who are operating under the managed  
4 care, under the 1915(b)(c) waivers, some who  
5 are on line to approach that shortly.

6 That is not to say there has not been  
7 disagreement. There has been significant  
8 disagreement. The -- that is not -- I mean,  
9 that's both with regard to providers and  
10 ref- -- and recipients. There has been. No  
11 question. You go from a system that is  
12 fee-for-service to managed care, you're going  
13 to have that. Rightly or wrongly, it's going  
14 to happen.

15 And there are folks -- and there have  
16 been other kinds of issues. And if you ever  
17 attended a mental health meeting, if you ever  
18 attended the predecessor organ- -- group that  
19 Senator Nesbitt chaired, there are lots of  
20 folks who have lots of interests.

21 We have already made the determination to  
22 go to managed care in mental health. That --  
23 what this bill does then is try to create a  
24 structure. And Senator -- Excuse me.  
25 Representative Dollar of the subcommittee that

1           was named that has a whole lot of folks on it,  
2           from lots of fields, and came up with just one  
3           structure.

4           What we are really doing now is creating  
5           a series of risk management -- basically,  
6           insurance companies that operate and provide  
7           services in certain areas. The -- and there  
8           has been consolidation because, the fact of  
9           the matter is, in the context of managed care,  
10          if you have more covered lives, in many ways,  
11          you're better able to provide the service.  
12          That's why there's some of this extension and  
13          whatever. And that's --

14          And you will find -- I mean, there are  
15          lots of folks who object to it, I mean, just  
16          the process. And it is not a -- a pretty  
17          thing, but it's the sort of thing that we have  
18          elected to proceed on. And this is an effort  
19          to actually create in some reasonable fashion  
20          a -- governing entities that are more in the  
21          nature of insurance companies than necessarily  
22          provider organizations. But it's base -- it's  
23          a geographic thing based on counties. And  
24          that's a long, lawyer's explanation.

25                    SENATOR APODACA: Senator Brown, does

1           that answer your question? I hope so.

2           SENATOR BROWN: Just a quick follow-up.

3           SENATOR APODACA: Yes, sir.

4           SENATOR BROWN: I know -- in my  
5           particular situation, I know that Onslow and  
6           Clark County had an LME, and it was forced to  
7           join another LME, and they were in the process  
8           of trying to figure out where they were going  
9           to go. I think they finally had settled on  
10          the Southeast, New Hanover and that. And I  
11          know that process has been ongoing. I'm not  
12          sure it's complete, to be quite honest; it may  
13          be. I'm not -- I'm just not sure.

14          Does this affect any of that as it's  
15          moving forward? Because I know some of these  
16          consolidations are in the making.

17          SENATOR HARTSELL: It does not affect  
18          that. I mean, those kind of -- except as  
19          it -- as it goes forward in the future. The  
20          problem that exists with the current statutory  
21          authority for -- for creating LMEs, and it's  
22          in Chapter 122, which this modifies, is that  
23          there is a certain minimum number of board  
24          members from each county and that sort of  
25          thing.



1           Well, when you have -- for instance, in  
2           the Northeast area, you have 19 counties in  
3           that. So you don't -- you end up having a  
4           board of 30 to 40 people. Well, it's hard to  
5           get quorums, it's hard to put together  
6           operations and that sort of thing.

7           So what this bill does is address a sort  
8           of restructured mechanism for creating what  
9           those governing boards would be and identifies  
10          the sort of categories, the people who would  
11          be involved in the boards themselves in these  
12          areas for LMEs.

13          There are folks who say, "We need to have  
14          somebody from each county." Well, when you  
15          have a 19-county board, and it serves 19  
16          counties, it gets kind of difficult to do  
17          that. So it's an effort to reduce -- in  
18          effect, to reduce the size of the boards of  
19          the entities and also put some structure into  
20          them as to the folks who would be sitting on  
21          the board, essentially by agreement.

22          But by the same token, there is a  
23          reasonable prospect that there will be further  
24          consolidation. And that's what this is --  
25          that other provision is attempting to address.

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/20/12 session

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1           It is particularly true in the case of Wake,  
2           Wake and Durham Counties, who have actually  
3           agreed on virtually everything and have the  
4           function and the ability to do it. But under  
5           the base bill, they couldn't do it in the  
6           fashion they agreed.

7           SENATOR APODACA: Senator Stein.

8           SENATOR STEIN: Well, I have two  
9           questions. I'm going to reverse the order.  
10          Section 10, on Page 6, has to do with  
11          confidentiality and removing it from public  
12          records contracts. What is "competitive  
13          health information"? Is that the contract or  
14          is that people's mental health information?

15          SENATOR HARTSELL: That is language --  
16          one, that is language that exists -- and I --  
17          is Mr. Parker here? To be quite candid with  
18          you, I don't like that section. But it is  
19          language that is in other hospitals'. And it  
20          was -- contrary to popular opinion, that is  
21          not something that I put in there; that is  
22          something that was in there to begin with in  
23          the negotiating process.

24          SENATOR STEIN: Follow-up.

25          SENATOR APODACA: Item 2?

1           SENATOR STEIN: Well, let me just  
2 follow-up on that.

3           SENATOR APODACA: Okay. Please.

4           SENATOR STEIN: If it didn't come from  
5 you, who wanted it in? And if staff can  
6 address what "competitive healthcare  
7 information" is, that would be helpful.

8           SENATOR HARTSELL: Well, let me -- let  
9 me -- I wanted him to do that, but I have a  
10 question as to what "competitive healthcare  
11 information" is. Hospitals have a definition  
12 of it, other providers have definitions of it.  
13 There is no definition in statute that I'm  
14 aware of. There is a process for determining  
15 it. You have to go through OAH or somebody  
16 to, you know, get some kind of declaratory  
17 ruling to be able to establish it.

18           I confess, I have a prejudice here  
19 that -- it's hard for me to understand how  
20 you can have a compet- -- can have significant  
21 competitive healthcare information in what's  
22 in effect a monopoly environment. However,  
23 there is an exception to that, I think, as it  
24 relates to hospitals and their kinds of  
25 enrollment. But I'm not -- that's my

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1 prejudice. That's where -- it's in there.  
2 That is existing law in particularly the  
3 hospital authority.

4 SENATOR STEIN: Who wanted it in here? I  
5 mean, it's in here somehow as new law.

6 SENATOR KINNAIRD: I can tell you who  
7 wanted it in there.

8 MR. HARTSELL: Well --

9 SENATOR APODACA: Senator Hartsell? I  
10 mean, Mr. Parker is here. Now, I know why I'm  
11 not on the mental health committee, but carry  
12 on.

13 MR. PARKER: There was a subcommittee on  
14 LME governance that was set up as a  
15 subcommittee of the health and human service  
16 oversight study committee. They comprised of  
17 a number of members. But what their task was,  
18 was to identify barriers to LME/MCO governance  
19 under our current chapters in 122C.

20 And of the number of issues they  
21 identify, one was this question relating to  
22 competitive healthcare information. So it was  
23 the subcommittee that recommended there was a  
24 concern. So I guess the original co-author  
25 was the subcommittee that said that there

1 needs to be some language to give, I guess, at  
2 least some protections to information that  
3 they may feel is competitive healthcare  
4 information.

5 And what the direction to staff was, was  
6 to find language that was identical. And so  
7 what I did was use language from 131E, which  
8 is what the public hospital authorities use.  
9 And so, that -- this language mirrors it  
10 identical with the exception that it's the  
11 area authorities versus the hospital  
12 authorities.

13 To answer the other question, is -- what  
14 is "competitive healthcare information," while  
15 there is not a definition, the committee --  
16 the subcommittee decided not to insert what  
17 this is as to not create a problem with the  
18 other section that has the same provision.

19 There is at least one case law where a  
20 court has stepped in and said a public  
21 contract was not competitive healthcare  
22 information and then offered it. So I can  
23 tell you at least a circumstance where a court  
24 came in and said this is not.

25 But the intent of the subcommittee was to

1           give the area authorities a chance to say,  
2           "Before we turn over something as public  
3           records request, we believe that there's  
4           competitive healthcare information, so please  
5           follow the process to make sure that gets  
6           disclosed," instead of the opposite where they  
7           would have had to disclose first and then find  
8           a way to stop it. That's it.

9           SENATOR STEIN: Thank you, Mr. Parker.

10          SENATOR APODACA: Senator Stein, you had  
11          two questions. Second one?

12          SENATOR STEIN: The other question was,  
13          what was the genesis -- and maybe it was the  
14          same subcommittee process -- of restructuring  
15          the boards? Who asked for this legislation?

16          SENATOR HARTSELL: Actually, we -- the  
17          Senate passed a bill relating to this last  
18          year, to set up a study committee to do it.  
19          It went to the House, it languished in the  
20          House. But there was a sub- -- the committee  
21          that Mr. Parker was speaking of is a  
22          subcommittee of the HHS oversight, which is  
23          appointed by HHS oversight, to look at this.  
24          I will -- I will rush to add, HHS -- the  
25          subcommittee of HHS oversight never voted on

1 the proposal.

2 SENATOR STEIN: Okay.

3 SENATOR HARTSELL: The full -- the full  
4 committee of HHS did, in fact, vote on the  
5 proposal.

6 SENATOR STEIN: Thank you.

7 SENATOR APODACA: Senator Kinnaird?

8 SENATOR KINNAIRD: Thank you. I don't  
9 know if this is the proper place to ask about  
10 this. We received a letter in response to  
11 your request about the contract, the standard  
12 form contract. Is this the place to talk  
13 about it, or do you want to address it  
14 somewhere else?

15 SENATOR HARTSELL: It probably should be  
16 somewhere -- I did receive a response to that,  
17 but I will add that that response was a  
18 process response, not a content response.  
19 I'll leave it at that.

20 SENATOR KINNAIRD: Okay. I'll talk with  
21 you later.

22 SENATOR HARTSELL: You know, members --

23 SENATOR APODACA: Senator Nesbitt.

24 SENATOR NESBITT: A question on this.

25 I'm trying to save us a little time in here.

1           Is there any possibility this can go back to  
2           the committee where we already spend about two  
3           hours on this bill. This is a total  
4           rewrite --

5           SENATOR HARTSELL: No, it's not.

6           SENATOR NESBITT: -- as I see it. And  
7           DHA had asked for a copy of the bill. They  
8           hadn't even seen it.

9           SENATOR APODACA: Senator Nesbitt, what I  
10          was getting ready to say, I think this has a  
11          lot of hair on it, and we may need to send it  
12          in for a little haircut. What I'd like to do  
13          is, at this time, move it to tomorrow morning,  
14          give everybody a chance to look at it, and see  
15          where we need to go from that point, if that's  
16          all right with Senator Hartsell.

17          SENATOR HARTSELL: Sure. Let me say,  
18          this is not significantly different from what  
19          came out of the mental health committee, other  
20          than three changes, eliminating Section 14 and  
21          putting in this alternative mechanism. And --  
22          that's the second change, adding the  
23          alternative. And the third was adding this  
24          provision on appeals.

25          SENATOR APODACA: Maybe y'all can --



Transcript of the Proceedings

Committee on Rules and Operations of the Senate, 6/20/12 session

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1           SENATOR NESBITT: Those are -- they are  
2           significant changes. I mean, doing away with  
3           the hospital part on these things is major.  
4           And I just -- it's kind of hard to absorb.

5           SENATOR APODACA: Okay. Yeah.

6           SENATOR NESBITT: -- this bill in the  
7           Rules Committee.

8           SENATOR APODACA: Yeah. We'll decide  
9           tomorrow morning which way we'll go with it,  
10          if that's all right with the members. Unless  
11          you want to hear some more testimony, we'll do  
12          it. All right. Let's do that. Let's move  
13          on.

14          Yesterday, you received, oh, Senate Joint  
15          Resolution -- okay -- 955. Adjournment sine  
16          die 2011 regular session of the General  
17          Assembly. It is, at this time -- it says,  
18          June 30th, 2012, it's our full intent to be  
19          gone, if we can keep Senator Stein away for  
20          that long.

21          So do I have a motion to adopt the  
22          resolution? Senator Brock moves we give  
23          favorable report to the Senate Joint  
24          Resolution 955. All in favor, say, "Aye."

25                           (Voice vote.)

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/20/12 session

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1                   SENATOR APODACA: Anyone opposed? Okay.

2                   Let's talk about process real quick as we  
3 go forward. What we're probably going to do  
4 as we move towards shutting down is we'll  
5 probably have an open 9 o'clock time period  
6 for Rules Committee meetings next week so we  
7 can handle anything that comes forth.  
8 Tomorrow morning, we'll hear from the  
9 Governor's office on the letter. And then,  
10 we'll decide which direction we're going to go  
11 with this inquiry so --

12                   But next week, leave it open, because  
13 we'll be handling a lot of stuff in and out of  
14 here. So we are adjourned. Thank you.

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1 State of North Carolina )

2 County of Wake )

3

4 I, Sarah A. Bowers, a Notary Public of the State

5

6 of North Carolina, County of Wake, do hereby certify

7

8 that I was authorized to and did stenographically report

9

10 the foregoing proceedings and that the transcript is a

11

12 true and complete record of my stenographic notes.

13

14 As witnessed by my hand this 6th day of July,

15

16 2012.

17

18

19

20

21

22 Sarah A. Bowers

23

24 Notary Public No. 200620500044

25

Senator Tom Apodaca

Rules Committee

June 20, 2012

- Members of the Committee, as you know, we opened an inquiry yesterday into the Senate's receipt of several letters from the Department of Transportation regarding funding for two particular highway projects during this fiscal year. Copies of those letters were distributed to the Committee yesterday.
- Yesterday, we heard from Senator Bill Rabon regarding his understanding of relevant events.
- Today, at my invitation, we have a representative of the Department of Transportation here to explain the Department's understanding of same sequence of events.
- With that, I will invite Jim Trogdon, the Chief of Operations at the Department, to provide his understanding of the relevant events.
- Mr. Trogdon?

[General Trogdon is invited to relay his understanding of the events surrounding the five letters in question].

[after Trogdon speaks, you might request that he provide copies of all draft letters and communications in his possession pertaining to the letters at issue]



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

1501 MAIL SERVICE CENTER, RALEIGH, N.C. 27699-1501

EUGENE A. CONTI, JR.  
SECRETARY

June 14, 2012

The Honorable Stan White  
North Carolina General Assembly  
1121 Legislative Building  
16 West Jones Street  
Raleigh, North Carolina 27601

Dear Senator White:

Governor Perdue asked me to respond to your letter concerning ferry tolling and the Gap funding for the Mid-Currituck Bridge project. The North Carolina Department of Transportation (NCDOT) appreciates your concerns regarding both these issues.

The Department continues to monitor legislative actions regarding ferry tolling, and we are committed to working with the legislature on finding a constructive solution as soon as possible.

We are aware of the importance of the Mid-Currituck project to eastern North Carolina and, ultimately, to the entire State. We are committed to moving forward with this project as expeditiously as possible. On June 8, as requested, I provided an anticipated project schedule to the Transportation Appropriations Co-Chairs, based on clear indication of legal action from third parties. Notwithstanding, to be certain that NCDOT can proceed with this important project as soon as possible, \$28 million annual planned GAP funds are needed in this budget cycle. I believe this information supports complete funding for the Mid-Currituck Bridge project. Please see attached a copy of this letter.

Thank you for your interest in ensuring that this project is a high priority in our state. Please feel free to contact me if you need additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Trogdon".

Jim Trogdon, P.E.  
Chief Operating Officer

Attachment

cc: Governor Beverly Perdue



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

1501 MAIL SERVICE CENTER, RALEIGH, N.C. 27699-1501

EUGENE A. CONTI, JR.  
SECRETARY

June 14, 2012

The Honorable William A. Current, Sr.  
North Carolina General Assembly  
418B Legislative Office Building  
Raleigh, North Carolina 27603

Dear Representative Current:

Governor Perdue asked me to respond to your concern regarding the Gap funding for the Garden Parkway project. The North Carolina Department of Transportation (NCDOT) is aware of the importance of this project to western North Carolina and, ultimately, to the entire State.

The Department is committed to moving forward with this project as expeditiously as possible. On June 8, as requested, I provided an anticipated project schedule to the Transportation Appropriations Co-Chairs, based on clear indication of legal action from third parties. Notwithstanding, to be certain that NCDOT can proceed with this important project as soon as possible, \$35 million annual planned GAP funds are needed in this budget cycle. I believe this information supports complete funding for the Garden Parkway project. Please see attached a copy of this letter.

Thank you for your interest in ensuring that this project is a high priority in our state. Please feel free to contact me if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Trogdon".

Jim Trogdon, P.E.  
Chief Operating Officer

Attachment

cc: Governor Beverly Perdue

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

II

D

HOUSE BILL 1075\*  
Committee Substitute Favorable 6/5/12  
Senate Mental Health & Youth Services Committee Substitute Adopted 6/11/12  
PROPOSED SENATE COMMITTEE SUBSTITUTE H1075-CSSQ-90 [v.1]

6/19/2012 10:47:19 PM

Short Title: LME/MCO Governance.

(Public)

Sponsors:

Referred to:

May 24, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES IN GOVERNANCE OF LOCAL MANAGEMENT  
3 ENTITIES WITH RESPECT TO THE IMPLEMENTATION OF STATEWIDE  
4 EXPANSION OF THE 1915(B)/(C) MEDICAID WAIVER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 122C-115(a) reads as rewritten:

7 "§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and  
8 cities.

9 (a) A county shall provide mental health, developmental disabilities, and substance  
10 abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide  
11 restructuring of the management responsibilities for the delivery of services for individuals  
12 with mental illness, intellectual or other developmental disabilities, and substance abuse  
13 disorders under a 1915(b)/(c) Medicaid Waiver through an area authority or authority, through  
14 a county program established pursuant to G.S. 122C-115.1, G.S. 122C-115.1, or through a  
15 behavioral health authority established pursuant to Part 2B of this Chapter. Beginning July 1,  
16 2012, the catchment area of an area authority or a county program shall contain a minimum  
17 population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority  
18 or a county program shall contain a minimum population of at least 500,000. To the extent this  
19 section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control."

20 SECTION 2.(a) G.S. 122C-116 reads as rewritten:

21 "§ 122C-116. Status of area authority; status of consolidated human services agency.

22 (a) An area authority is a local political subdivision of the State ~~except that a single~~  
23 ~~county area authority is considered a department of the county in which it is located for the~~  
24 ~~purposes of Chapter 159 of the General Statutes-State.~~

25 (b) A consolidated human services agency is a department of the county."

26 SECTION 2.(b) G.S. 122C-115.1(i) reads as rewritten:

27 "(i) Except as otherwise specifically provided, this Chapter applies to counties that  
28 provide mental health, developmental disabilities, and substance abuse services through a  
29 county program. As used in the applicable sections of this Article, the terms "area authority",  
30 "area program", and "area facility" shall be construed to include "county program". ~~The~~  
31 ~~following sections of this Article do not apply to county programs:~~

32 (1) ~~G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.~~



1           (2)    G.S. 122C-119 and G.S. 122C-119.1.

2           (3)    G.S. 122C-120 and G.S. 122C-121.

3           (4)    G.S. 122C-127.

4           (5)    G.S. 122C-147.

5           (6)    G.S. 122C-152 and G.S. 122C-153.

6           (7)    G.S. 122C-156.

7           (8)    G.S. 122C-158."

8           SECTION 3.(a) G.S. 122C-118.1 reads as rewritten:

9    "**§ 122C-118.1. Structure of area board.**

10       (a)    ~~An area board shall have no fewer than 11 and no more than 25 members. However,~~  
11 ~~the area board for a multicounty area authority consisting of eight or more counties may have~~  
12 ~~up to 30 members. In a single county area authority, the members shall be appointed by the~~  
13 ~~board of county commissioners. Except as otherwise provided, in areas consisting of more than~~  
14 ~~one county, each board of county commissioners within the area shall appoint one~~  
15 ~~commissioner as a member of the area board. These members shall appoint the other members.~~  
16 ~~The boards of county commissioners within the multicounty area shall have the option to~~  
17 ~~appoint the members of the area board in a manner other than as required under this section by~~  
18 ~~adopting a resolution to that effect. The boards of county commissioners in a multicounty area~~  
19 ~~authority shall indicate in the business plan each board's method of appointment of the area~~  
20 ~~board members in accordance with G.S. 122C-115.2(b). These appointments shall take into~~  
21 ~~account sufficient citizen participation, representation of the disability groups, and equitable~~  
22 ~~representation of participating counties. Individuals appointed to the board shall include two~~  
23 ~~individuals with financial expertise, an individual with expertise in management or business,~~  
24 ~~and an individual representing the interests of children. A member of the board may be~~  
25 ~~removed with or without cause by the initial appointing authority. Vacancies on the board shall~~  
26 ~~be filled by the initial appointing authority before the end of the term of the vacated seat or~~  
27 ~~within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the~~  
28 ~~remainder of the unexpired term. An area board shall have no fewer than 11 and no more than~~  
29 21 voting members. The board of county commissioners, or the boards of county  
30 commissioners within the area, shall appoint members consistent with the requirements  
31 provided in subsection (b) of this section. The process for appointing members shall ensure  
32 participation from each of the constituent counties of a multicounty area authority. If the board  
33 or boards fail to comply with the requirements of subsection (b) of this section, the Secretary  
34 shall appoint the unrepresented category. A member of the board may be removed with or  
35 without cause by the initial appointing authority. The area board may declare vacant the office  
36 of an appointed member who does not attend three consecutive scheduled meetings without  
37 justifiable excuse. The chair of the area board shall notify the appropriate appointing authority  
38 of any vacancy. Vacancies on the board shall be filled by the initial appointing authority before  
39 the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first,  
40 and the appointments shall be for the remainder of the unexpired term. The boards of county  
41 commissioners within a multicounty area with a catchment population of at least 1,250,000  
42 shall have the option to appoint members of the area board in a manner other than as required  
43 by this section by each county adopting a resolution to that effect and receiving written  
44 approval from the Secretary by July 1, 2013.

45       (b)    ~~Except as otherwise~~Within the maximum membership provided in this subsection,  
46 ~~not more than fifty percent (50%) of~~subsection (a) of this section, the membersmembership of  
47 the area board shall reside within the catchment area and represent the following:  
48 be composed  
49 as follows:

- 50           (1)    ~~A physician licensed under Chapter 90 of the General Statutes to practice~~  
~~medicine in North Carolina who, when possible, is certified as having~~



- 1 ~~completed a residency in psychiatry. At least one member who is a current~~  
 2 ~~county commissioner.~~  
 3 (2) ~~A clinical professional from the fields of mental health, developmental~~  
 4 ~~disabilities, or substance abuse. The chair of the local Consumer and Family~~  
 5 ~~Advisory Committee (CFAC) or the chair's designee.~~  
 6 (3) ~~At least one family member or individual from a citizens' organization~~  
 7 ~~composed primarily of consumers or their family members, of the local~~  
 8 ~~CFAC, as recommended by the local CFAC, representing the interests of~~  
 9 ~~individuals; the following:~~  
 10 a. ~~With Individuals with mental illness; illness.~~  
 11 b. ~~In Individuals in recovery from addiction; or addiction.~~  
 12 c. ~~With Individuals with intellectual or other developmental disabilities.~~  
 13 (4) ~~At least one openly declared consumer member of the local CFAC, as~~  
 14 ~~recommended by the local CFAC, representing the interests of the~~  
 15 ~~following:~~  
 16 a. ~~With Individuals with mental illness; illness.~~  
 17 b. ~~With Individuals with intellectual or other developmental disabilities;~~  
 18 ~~or disabilities.~~  
 19 c. ~~In Individuals in recovery from addiction.~~  
 20 (5) ~~An individual with health care expertise and experience in the fields of~~  
 21 ~~mental health, intellectual or other developmental disabilities, or substance~~  
 22 ~~abuse services.~~  
 23 (6) ~~An individual with health care administration expertise consistent with the~~  
 24 ~~scale and nature of the managed care organization.~~  
 25 (7) ~~An individual with financial expertise consistent with the scale and nature of~~  
 26 ~~the managed care organization.~~  
 27 (8) ~~An individual with insurance expertise consistent with the scale and nature~~  
 28 ~~of the managed care organization.~~  
 29 (9) ~~An individual with social services expertise and experience in the fields of~~  
 30 ~~mental health, intellectual or other developmental disabilities, or substance~~  
 31 ~~abuse services.~~  
 32 (10) ~~An attorney with health care expertise.~~  
 33 (11) ~~A member who represents the general public and who is not employed by or~~  
 34 ~~affiliated with the Department of Health and Human Services, as appointed~~  
 35 ~~by the Secretary.~~  
 36 (12) ~~The President of the LME/MCO Provider Council or the President's~~  
 37 ~~designee to serve as a nonvoting member who shall participate only in Board~~  
 38 ~~activities that are open to the public.~~  
 39 (13) ~~An administrator of a hospital providing mental health, developmental~~  
 40 ~~disabilities, and substance abuse emergency services to serve as a nonvoting~~  
 41 ~~member who shall participate only in Board activities that are open to the~~  
 42 ~~public.~~

43 ~~An~~ Except as provided in subdivision (12) of this subsection, an individual that contracts  
 44 with a local management entity (LME) for the delivery of mental health, developmental  
 45 disabilities, and substance abuse services may not serve on the board of the LME for the period  
 46 during which the contract for services is in effect. No person registered as a lobbyist under  
 47 Chapter 120C of the General Statutes shall be appointed to or serve on an area authority board.  
 48 Of the members described in subdivisions (2) through (4) of this subsection, the boards of  
 49 county commissioners shall ensure there is at least one member representing the interest of  
 50 each of the following: (i) individuals with mental illness, (ii) individuals with intellectual or  
 51 other developmental disabilities, and (iii) individuals in recovery from addiction.

1 (c) The board of county commissioners may elect to appoint a member of the area  
2 authority board to fill concurrently no more than two categories of membership if the member  
3 has the qualifications or attributes of the two categories of membership.

4 (d) Any member of an area board who is a county commissioner serves on the board in  
5 an ex officio capacity at the pleasure of the initial appointing authority, for a term not to exceed  
6 the earlier of three years or the member's service as a county commissioner. Any member of an  
7 area board who is a county manager serves on the board at the pleasure of the initial appointing  
8 authority, for a term not to exceed the earlier of three years or the duration of the member's  
9 employment as a county manager. The terms of ~~the other members~~ on the area board shall be  
10 for three years, except that upon the initial formation of an area board in compliance with  
11 subsection (a) of this section, one-third shall be appointed for one year, one-third for two years,  
12 and all remaining members for three years. ~~Members, other than county commissioners and~~  
13 ~~county managers, Members~~ shall not be appointed for more than ~~two~~three consecutive terms.  
14 ~~Board members serving as of July 1, 2006, may remain on the board for one additional term.~~  
15 ~~This subsection applies to all area authority board members regardless of the procedure used to~~  
16 ~~appoint members under subsection (a) of this section.~~

17 (e) Upon request, the board shall provide information pertaining to the membership of  
18 the board that is a public record under Chapter 132 of the General Statutes."

19 **SECTION 3.(b)** All area boards shall meet the requirements of G.S. 122C-118.1,  
20 as amended by subsection (a) of this section, no later than July 1, 2013.

21 **SECTION 4.(a)** G.S. 122C-119.1 reads as rewritten:

22 "**§ 122C-119.1. Area Authority board members' training.**

23 All members of the governing body for an area authority shall receive initial orientation on  
24 board members' responsibilities and annual training provided by the Department ~~in which shall~~  
25 include fiscal management, budget development, and fiscal accountability. A member's refusal  
26 to be trained shall be grounds for removal from the board."

27 **SECTION 4.(b)** The North Carolina Department of Health and Human Services, in  
28 cooperation with the School of Government and the local management entities, shall develop a  
29 standardized core curriculum for the training described in subsection (a) of this section.

30 **SECTION 5.** G.S. 122C-170(b) reads as rewritten:

31 "Part 4A. Consumer and Family Advisory Committees.

32 "**§ 122C-170. Local Consumer and Family Advisory Committees.**

33 ...  
34 (b) Each of the disability groups shall be equally represented on the CFAC, and the  
35 CFAC shall reflect as closely as possible the racial and ethnic composition of the catchment  
36 area. The terms of members shall be three years, and no member may serve more than ~~two~~three  
37 consecutive terms. The CFAC shall be composed exclusively of:

- 38 (1) Adult consumers of mental health, developmental disabilities, and substance  
39 abuse services.  
40 (2) Family members of consumers of mental health, developmental disabilities,  
41 and substance abuse services.

42 ...."

43 **SECTION 6.** Area authorities may add one or more additional counties to their  
44 existing catchment area by agreement of a majority of the existing member counties.

45 **SECTION 7.(a)** Beginning July 1, 2012, and for a period of two years thereafter,  
46 the Department of Health and Human Services shall not approve any county's request to  
47 withdraw from a multicounty area authority operating under the 1915(b)/(c) Medicaid Waiver.  
48 Not later than January 1, 2014, the Secretary shall adopt rules to establish a process for county  
49 disengagement that shall at a minimum ensure the following:

- 50 (1) Provisions of service are not disrupted by the disengagement.

- 1 (2) The disengaging county is either in compliance or plans to merge with an  
2 area authority that is in compliance with population requirements provided  
3 in G.S. 122C-155(a).  
4 (3) The timing of the disengagement is accounted for and does not conflict with  
5 setting capitation rates.  
6 (4) Adequate notice is provided to the affected counties, the Department of  
7 Health and Human Services, and the General Assembly.  
8 (5) Provisions for distribution of any real property no longer within the  
9 catchment area of the area authority.

10 **SECTION 7.(b)** G.S. 122C-112.1 is amended by adding a new subdivision to read:  
11 "(38) Adopt rules establishing a procedure for single-county disengagement from  
12 an area authority operating under a 1915(b)/(c) Medicaid Waiver."

13 **SECTION 8.** G.S. 122C-147(c) reads as rewritten:

14 "**§ 122C-147. Financing and title of area authority property.**

15 ...  
16 (c) All real property purchased for use by the area authority shall be provided by local  
17 or federal funds unless otherwise allowed under subsection (b) of this section or by specific  
18 capital funds appropriated by the General Assembly. The title to this real property and the  
19 authority to acquire it is held by the county where the property is located. ~~The authority to hold~~  
20 ~~title to real property and the authority to acquire it, including the area authority's authority to~~  
21 ~~finance its acquisition by an installment contract under G.S. 160A-20, may be held by the area~~  
22 ~~authority or by the contracting governmental entity with the approval of the board or boards of~~  
23 ~~commissioners of all the counties that comprise the area authority. The approval of a board of~~  
24 ~~county commissioners shall be by resolution of the board and may have any necessary or~~  
25 ~~proper conditions, including provisions for distribution of the proceeds in the event of~~  
26 ~~disposition of the property by the area authority.~~ area authority. Real property may not be  
27 acquired by means of an installment contract under G.S. 160A-20 unless the Local Government  
28 Commission has approved the acquisition. No deficiency judgment may be rendered against  
29 any unit of local government in any action for breach of a contractual obligation authorized by  
30 this subsection, and the taxing power of a unit of local government is not and may not be  
31 pledged directly or indirectly to secure any moneys due under a contract authorized by this  
32 subsection.

33 ...."

34 **SECTION 9.(a)** G.S. 122C-117 reads as rewritten:

35 "**§ 122C-117. Powers and duties of the area authority.**

36 (a) The area authority shall do all of the following:

37 ...  
38 (7) Appoint an area director in accordance with G.S. 122C-121(d). ~~The~~  
39 ~~appointment is subject to the approval of the board of county commissioners~~  
40 ~~except that one or more boards of county commissioners may waive its~~  
41 ~~authority to approve the appointment. The appointment shall be based on a~~  
42 ~~selection by a search committee of the area authority board. The search~~  
43 ~~committee shall include consumer board members, a county manager, and~~  
44 ~~one or more county commissioners. The Secretary shall have the option to~~  
45 ~~appoint one member to the search committee.~~

46 ...  
47 (17) Have the authority to borrow money with the approval of the Local  
48 Government Commission.

49 ...  
50 (c) Within 30 days of the end of each quarter of the fiscal year, the area director and  
51 finance officer of the area authority shall provide the quarterly report of the area authority to

1 the county finance officer. The county finance officer shall provide the quarterly report to the  
2 board of county commissioners at the next regularly scheduled meeting of the board. The clerk  
3 of the board of commissioners shall notify the area director and the county finance officer if the  
4 quarterly report required by this subsection has not been submitted within the required period  
5 of time. This information shall be presented in a format prescribed by the county. At least twice  
6 a year, this information shall be presented in person and shall be read into the minutes of the  
7 meeting at which it is presented. In addition, the area director or finance officer of the area  
8 authority shall provide to the board of county commissioners ad hoc reports as requested by the  
9 board of county commissioners delivered to the county and, at the request of the board of  
10 county commissioners, may be presented in person by the area director or the director's  
11 designee.

12 ...."

13 SECTION 9.(b) G.S. 122C-115.2 is amended by adding a new subsection to read:

14 "(e) The Secretary may waive any requirements of this section that are inconsistent with  
15 or incompatible with contracts entered into between the Department and the area authority for  
16 the management responsibilities for the delivery of services for individuals with mental illness,  
17 intellectual or other developmental disabilities, and substance abuse disorders under a  
18 1915(b)/(c) Medicaid Waiver."

19 SECTION 10. Part 2 of Article 4 of Chapter 122C of the General Statutes is  
20 amended by adding a new section to read:

21 "**§ 122C-126.1. Confidentiality of competitive health care information.**

22 (a) For the purposes of this section, competitive health care information means  
23 information relating to competitive health care activities by or on behalf of the area authority.  
24 Competitive health care information shall be confidential and not a public record under Chapter  
25 132 of the General Statutes; provided that any contract entered into by or on behalf of an area  
26 authority shall be a public record, unless otherwise exempted by law, or the contract contains  
27 competitive health care information, the determination of which shall be as provided in  
28 subsection (b) of this section.

29 (b) If an area authority is requested to disclose any contract that the area authority  
30 believes in good faith contains or constitutes competitive health care information, the area  
31 authority may either redact the portions of the contract believed to constitute competitive health  
32 care information prior to disclosure or, if the entire contract constitutes competitive health care  
33 information, refuse disclosure of the contract. The person requesting disclosure of the contract  
34 may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any  
35 redacted portion thereof. In any action brought under this subsection, the issue for decision by  
36 the court shall be whether the contract, or portions of the contract withheld, constitutes  
37 competitive health care information, and in making its determination, the court shall be guided  
38 by the procedures and standards applicable to protective orders requested under Rule 26(c)(7)  
39 of the Rules of Civil Procedure. Before rendering a decision, the court shall review the contract  
40 in camera and hear arguments from the parties. If the court finds that the contract constitutes or  
41 contains competitive health care information, the court may either deny disclosure or may make  
42 such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

43 (c) Nothing in this section shall be deemed to prevent the Attorney General, the State  
44 Auditor, or an elected public body, in closed session, which has responsibility for the area  
45 authority, from having access to this confidential information. The disclosure to any public  
46 entity does not affect the confidentiality of the information. Members of the public entity shall  
47 have a duty not to further disclose the confidential information."

48 SECTION 11.(a) G.S. 126-5(a) reads as rewritten:

49 "**§ 126-5. Employees subject to Chapter; exemptions.**

50 (a) The provisions of this Chapter shall apply to:

51 (1) All State employees not herein exempt; and

- (2) All employees of the following local entities:
- a. ~~Area mental health, developmental disabilities, and substance abuse authorities-authorities, except as otherwise provided in Chapter 122C of the General Statutes.~~
  - b. Local social services departments.
  - c. County health departments and district health departments.
  - d. Local emergency management agencies that receive federal grant-in-aid funds.

An employee of a consolidated county human services agency created pursuant to G.S. 153A-77(b) is not considered an employee of an entity listed in this subdivision.

- (3) County employees not included under subdivision (2) of this subsection as the several boards of county commissioners may from time to time determine."

**SECTION 11.(b)** G.S. 122C-154 reads as rewritten:

**"§ 122C-154. Personnel.**

Employees under the direct supervision of the area director are employees of the area authority. For the purpose of personnel administration, Chapter 126 of the General Statutes applies unless otherwise provided in this Article. Employees appointed by the county program director are employees of the county. In a multicounty program, employment of county program staff shall be as agreed upon in the interlocal agreement adopted pursuant to G.S. 122C-115.1. Notwithstanding G.S. 126-9(b), an employee of an area authority may be paid a salary that is in excess of the salary ranges established by the State Personnel Commission. Any salary that is higher than the maximum of the applicable salary range shall be supported by documentation of comparable salaries in comparable operations within the region and shall also include the specific amount the board proposes to pay the employee. The area board shall not authorize any salary adjustment that is above the normal allowable salary range without obtaining prior approval from the Director of the Office of State Personnel."

**SECTION 11.(c)** G.S. 122C-121(a1) reads as rewritten:

~~"(a1) The area board shall establish the area director's salary under Article 3 of Chapter 126 of the General Statutes. An area board may request an adjustment to the salary ranges under G.S. 126-9(b). The request shall include specific information supporting the need for the adjustment, including comparative salary and patient caseload data for other LMEs, and shall also include the specific amount the area board proposes to pay the director. The area board shall not request a salary adjustment that is more than ten percent (10%) above the normal allowable salary range as determined by the State Personnel Commission. Notwithstanding G.S. 126-9(b), an area director may be paid a salary that is in excess of the salary ranges established by the State Personnel Commission. Any salary that is higher than the maximum of the applicable salary range shall be supported by documentation of comparable salaries in comparable operations within the region and shall also include the specific amount the board proposes to pay the director. The area board shall not authorize any salary adjustment that is above the normal allowable salary range without obtaining prior approval from the Director of the Office of State Personnel."~~

**SECTION 12.(a)** G.S. 122C-122 is repealed.

**SECTION 12.(b)** G.S. 35A-1202(4) reads as rewritten:

**"§ 35A-1202. Definitions.**

When used in the Subchapter, unless a contrary intent is indicated or the context requires otherwise:

- ...
- (4) "Disinterested public agent" ~~means~~ means

- 1 a. ~~The~~ the director or assistant directors of a local human services  
 2 agency, or county department of social services.  
 3 b. ~~An adult officer, agent, or employee of a State human services~~  
 4 ~~agency. The~~ Except as provided in G.S. 35A-1213(f), the fact that a  
 5 disinterested public agent is employed by a State or local human  
 6 services agency that provides financial assistance, services, or  
 7 treatment to a ward does not disqualify that person from being  
 8 appointed as guardian.  
 9

10 ...."

11 SECTION 12.(c) G.S. 35A-1213 reads as rewritten:

12 "§ 35A-1213. Qualifications of guardians.

13 (a) The clerk may appoint as guardian an adult individual, a corporation, or a  
 14 disinterested public agent. The applicant may submit to the clerk the name or names of  
 15 potential guardians, and the clerk may consider the recommendations of the next of kin or other  
 16 persons.

17 (b) A nonresident of the State of North Carolina, to be appointed as general guardian,  
 18 guardian of the person, or guardian of the estate of a North Carolina resident, must indicate in  
 19 writing his willingness to submit to the jurisdiction of the North Carolina courts in matters  
 20 relating to the guardianship and must appoint a resident agent to accept service of process for  
 21 the guardian in all actions or proceedings with respect to the guardianship. Such appointment  
 22 must be approved by and filed with the clerk, and any agent so appointed must notify the clerk  
 23 of any change in the agent's address or legal residence. The clerk shall require a nonresident  
 24 guardian of the estate or a nonresident general guardian to post a bond or other security for the  
 25 faithful performance of the guardian's duties. The clerk may require a nonresident guardian of  
 26 the person to post a bond or other security for the faithful performance of the guardian's duties.

27 (c) A corporation may be appointed as guardian only if it is authorized by its charter to  
 28 serve as a guardian or in similar fiduciary capacities. A corporation shall meet the requirements  
 29 outlined in Chapters 55 and 55D of the General Statutes. A corporation will provide a written  
 30 copy of its charter to the clerk of superior court. A corporation contracting with a public agency  
 31 to serve as guardian is required to attend guardianship training and provide verification of  
 32 attendance to the contracting agency.

33 (d) A disinterested public agent who is appointed by the clerk to serve as guardian is  
 34 authorized and required to do so; provided, if at the time of the appointment or any time  
 35 subsequent thereto the disinterested public agent believes that his role or the role of his agency  
 36 in relation to the ward is such that his service as guardian would constitute a conflict of interest,  
 37 or if he knows of any other reason that his service as guardian may not be in the ward's best  
 38 interest, he shall bring such matter to the attention of the clerk and seek the appointment of a  
 39 different guardian. A disinterested public agent who is appointed as guardian shall serve in that  
 40 capacity by virtue of his office or employment, which shall be identified in the clerk's order and  
 41 in the letters of appointment. When the disinterested public agent's office or employment  
 42 terminates, his successor in office or employment, or his immediate supervisor if there is no  
 43 successor, shall succeed him as guardian without further proceedings unless the clerk orders  
 44 otherwise.

45 (e) Notwithstanding any other provision of this section, an employee of a treatment  
 46 facility, as defined in G.S. 35A-1101(16), may not serve as guardian for a ward who is an  
 47 inpatient in or resident of the facility in which the employee works; provided, this subsection  
 48 shall not apply to or affect the validity of any appointment of a guardian that occurred before  
 49 October 1, 1987.

50 (f) An individual employed by an entity that contracts with a local management entity  
(LME) for the delivery of mental health, developmental disabilities, and substance abuse

1 services may not serve as a guardian for a ward for whom the individual is providing such  
2 services."

3 SECTION 12.(d) G.S. 35A-1292(a) reads as rewritten:

4 "**§ 35A-1292. Resignation.**

5 (a) Any guardian who wishes to resign ~~may apply in writing to the clerk, shall file a~~  
6 motion with the clerk setting forth the circumstances of the case. If a general guardian or  
7 guardian of the estate, at the time of making the application, also exhibits his final account for  
8 settlement, and if the clerk is satisfied that the guardian has fully accounted, the clerk may  
9 accept the resignation of the guardian and discharge him and appoint a successor ~~guardian, but~~  
10 ~~the guardian.~~ The guardian so discharged and his sureties are still liable in relation to all matters  
11 connected with the guardianship before the discharge-discharge and shall continue to ensure  
12 that the ward's needs are met until the clerk officially appoints a successor. The guardian shall  
13 attend the hearing to modify the guardianship, if physically able."

14 SECTION 12.(e) In order to achieve continuity of care and services, any successor  
15 guardian shall make diligent efforts to continue existing contracts entered into under the  
16 authority of G.S. 122C-122 where consistent with the best interest of the ward, as required by  
17 Chapter 35A of the General Statutes.

18 SECTION 13.(a) Section 1(a)(3) of S.L. 2011-264 reads as rewritten:

19 "(3) ~~Designate a single entity~~ an area authority for mental health, developmental  
20 disabilities, and substance abuse services to assume responsibility for all  
21 aspects of Waiver management. The following operational models are  
22 ~~acceptable options for Local Management Entity (LME)~~  
23 ~~applicants; acceptable:~~

- 24 a. Merger model: A single larger LME is formed from the merger of  
25 two or more LMEs.  
26 b. Interlocal agreement among LMEs: A single LME is identified as the  
27 leader for all Waiver operations, financial management, and  
28 accountability for performance measures."

29 SECTION 13.(b) Section 1(c) of S.L. 2011-264 reads as rewritten:

30 "**SECTION 1.(c)** The Department shall require LMEs that have not been approved by the  
31 Department to operate a 1915(b)/(c) Medicaid Waiver by January 1, 2013, to merge with or be  
32 aligned through an interlocal agreement with an LME that has been approved by the  
33 Department to operate a 1915(b)/(c) Medicaid Waiver. If any LME fails to comply with this  
34 requirement, or fails to meet performance requirements of an approved contract with the  
35 Department to operate a 1915(b)/(c) Medicaid Waiver, the Department shall assign  
36 responsibility for management of the 1915(b)/(c) Medicaid Waiver on behalf of the  
37 noncompliant LME to an LME that is successfully operating the Waiver and successfully  
38 meeting performance requirements of the contract with the Department. Those LMEs approved  
39 to operate the 1915(b)/(c) Medicaid Waiver under an interlocal agreement must have a single  
40 LME entity designated as responsible for all aspects of Waiver operations and solely  
41 responsible for meeting contract requirements."

42 SECTION 14. G.S. 108A-70.9A(a) reads as rewritten:

43 "**§ 108A-70.9A. Appeals by Medicaid recipients.**

44 (a) Definitions. – The following definitions apply in this Part, unless the context clearly  
45 requires otherwise.

46 (1) Adverse determination. – A determination by the Department to deny,  
47 terminate, suspend, or reduce a Medicaid service or an authorization for a  
48 Medicaid service.

49 (1a) Department. – The North Carolina Department of Health and Human  
50 Services, its legally authorized agents, contractors, or vendors who acting  
51 within the scope of their authorized activities, assess, authorize, manage,

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review, audit, monitor, or provide services pursuant to Title XIX or Title XXI of the Social Security Act, the North Carolina State Plan of Medical Assistance, the North Carolina State Plan of Health Insurance Program for Children, or any waivers of the federal Medicaid Act granted by the United States Department of Health and Human Services.

(2) OAH. – The Office of Administrative Hearings.

(3) Recipient. – A recipient and the recipient's parent, guardian, or legal representative, unless otherwise specified."

**SECTION 15.** This act is effective when it becomes law.





## HOUSE BILL 1075: LME/MCO Governance

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 19, 2012
<b>Introduced by:</b>	Reps. Dollar, Burr	<b>Prepared by:</b>	Shawn Parker
<b>Analysis of:</b>	PCS to Third Edition H1075-CSSQ-90		Staff Attorney

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**SUMMARY:** *House Bill 1075 amends the Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985 and other statutes to address identified barriers to the implementation of Statewide expansion of the 1915(b)/(c) Medicaid Waiver as recommended by the Joint Legislative Oversight Committee on Health and Human Services.*

*The Proposed Committee Substitute (i) removes the provision relating to establishing behavioral health authorities, (ii) adds a provision to authorize alternative board structures, and (iii) clarifies the Medicaid recipient appeals process under G.S. 108A-79A includes adverse determinations by LMEs managing a 1915(b)(c) waiver.*

### CURRENT LAW:

The policy of the State is to assist individuals with needs for mental health, developmental disabilities, and substance abuse services in ways consistent with the dignity, rights, and responsibilities of all North Carolina citizens. Further, State and local governments are directed to develop and maintain a unified system of services centered in area authorities or county programs.

Session Law 2011-264 (HB 916) directed the Department of Health and Human Services to restructure the management responsibilities for the delivery of services for individuals with mental illness, intellectual and developmental disabilities, and substance abuse disorders by expanding operation of 1915(b)/(c) Medicaid Waivers statewide. The 1915(b) authority limits freedom of choice, and 1915(c) authority targets eligibility for the program and provides home and community-based services. States must demonstrate cost neutrality in the 1915(c) waiver and cost effectiveness in the 1915(b) waiver.

Sections 1915(b) and(c) of the Social Security Act authorizes the Secretary of the U.S. Department of Health and Human Services to waive certain Medicaid statutory requirements. The waivers allow states to cover a broad array of home and community-based services for certain populations as an alternative to institutional care. Section 1915(b) waivers are commonly known as "freedom of choice" or managed care waivers. Section 1915(c) waivers allow the provision of home and community-based services in lieu of institutional care. Section 1915(b)/(c) waivers combine all Medicaid-funded mental health/developmental disability/substance abuse (MH/DD/SAS) services to allow a single capitated managed care system as a vehicle for service delivery to Medicaid recipients at the community level.

### BILL ANALYSIS:

**Sections 1 and 2** provide that all area authorities are considered local political subdivisions of the State and that a county's responsibility for the provision of mh/dd/sa services includes adhering to rules, policies, and guidelines developed pursuant to a statewide expansion of a 1915(b)/(c) Medicaid Waiver.

**Section 3** directs the Boards of County Commissioners within an area authority's catchment to appoint an area board that consists of no fewer than 11 and no more than 21 voting members, of which the following categories must be represented:

- *At least one county commissioner*

# House PCS 1075

Page 2

- *The chair of the Consumer and Family Advisory Committee (CFAC)*
- *A family member who is also a member of CFAC*
- *A consumer who is also a member of CFAC*
- *A person with healthcare expertise and experience in mh/dd/sas*
- *A person with social service expertise and experience in mh/dd/sas*
- *A person with financial experience consistent with scale and nature of MCO*
- *A person with insurance experience consistent with scale and nature of MCO*
- *An attorney with health care experience*
- *A Member of public not employed/affiliated with DHHS- appointed by Secretary*
- *The President of LME/MCO Provider Council or Designee (as non-voting- limited to open session)*

Members shall serve up to three consecutive three-year terms. The bill adds a provision to account for excessive absences. All area boards are to be in compliance by July 1, 2013. The Secretary is directed to appoint members consistent with the statute in the event a board of county commissioners fails to appoint each required category of membership. Large LMEs (at least 1.25 million people within the catchment area) may change the prescribed board structure with Secretary approval and a resolution to that effect adopted by each constituent county's board of commissioners.

**Section 4** directs annual training for board members which includes, at a minimum, training in fiscal management, budget development, and fiscal accountability. The bill directs the Department in cooperation with the School of Government and LMEs to develop a standard curriculum for this training.

**Section 5** authorizes a third term for members of a local CFAC to avoid conflicting with membership requirements of an area board.

**Section 6** allows an LME to add counties to its catchment area without unanimous approval of every county within the current LME catchment area.

**Section 7** provides a 2-year moratorium on single-county withdrawal from an LME. Further, the Secretary is directed to adopt rules for county disengagement that account for undisrupted services, catchment population requirements, capitation rates, and distribution of real property.

**Section 8** authorizes an LME to hold title to real property. *Currently this requires approval from the board of commissioners from each county that comprises the area authority.*

**Section 9** removes county commissioner approval for appointing an area director and explicitly gives an LME the authority to borrow money subject to the approval of the Local Government Commission. The section changes the manner in which quarterly fiscal reports are presented and allows the Secretary to waive any inconsistent or incompatible requirements of an LME's business plan based on active contracts to operate a 1915(b)/(c) waiver.

**Section 10** provides that competitive health care information is not a public record under Chapter 132 and allows an LME acting in good faith to redact information believed to contain such information or not release the record. If the record is not released, the provision describes a process for judicial intervention.

**Section 11** allows a board to approve salaries for directors and employees in excess of ranges established by the State Personnel Commission when supported by documentation of comparable salaries in comparable operations within the region approved by the Secretary.

**Section 12** repeals the provision of law authorizing qualified area directors, officers, or employees of an area authority to serve as a guardian for adults adjudicated incompetent under Chapter 35A. The section redefines *disinterested public agent* to mean the director or assistant director of a county department of

# House PCS 1075

Page 3

social services (was local human services agency). Further, the section adds training requirements for corporations contracting with the disinterested public agent and prohibits providers from serving as guardians to individuals to whom it also provides mh/dd/sa services pursuant to a contract with the LME.

**Section 13** clarifies that only an LME may manage a 1915(b)/(c) Medicaid Waiver.

**Section 14** provides that for the purposes the Medicaid recipient appeal process through the Office of Administrative Hearings, the Department includes legally authorized agents, contractors, or vendors of the Department acting within the scope of their authorized activity pursuant to Title XIX or Title XXI of the Social Security Act, the North Carolina State Plan of Medical Assistance, the North Carolina State Plan of Health Insurance Program for Children, or any waivers of the federal Medicaid Act granted by the United States Department of Health and Human Services.

*This act is effective when it becomes law.*

111075-SMSQ-79(CSSQ-90) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE JOINT RESOLUTION 955  
PROPOSED COMMITTEE SUBSTITUTE S955-PCS35388-RW-82

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Sponsors:

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Referred to:

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June 4, 2012

1 A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2011  
2 REGULAR SESSION OF THE GENERAL ASSEMBLY.

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

4 SECTION 1. When the Senate and the House of Representatives, constituting the  
5 2011 Session of the General Assembly, adjourn on Saturday, June 30, 2012, they stand  
6 adjourned sine die.

7 SECTION 2. This resolution is effective upon ratification.



**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Wednesday, June 20, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO JOINT RESOLUTION, BUT FAVORABLE AS TO COMMITTEE  
SUBSTITUTE BILL**

<b>S.JR.(CS #1) 955</b>	Adjournment Sine Die.	
	Draft Number:	35388
	Sequential Referral:	None
	Recommended Referral:	None
	Long Title Amended:	No

**TOTAL REPORTED: 1**

**Committee Clerk Comments:**

VISITOR REGISTRATION SHEET

Senate Rules and Operations of the Senate  
Committee Name

Date

June 20, 2012

VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Courtney Westcott	Visitor
Dana Foster	CLT
Leanne Wmner	NCSBA
Katherine Joyce	NCSA
Matt Farrell	NCSBA
Sarah Wolfe	MWC
John Moran #	MWC
KRIS HART	DHHS
Allison Waller	Nelson Mullins
<del>Spencer</del>	Misc
<del>Sten</del>	NCS
<del>Al</del>	Idéal Com
ASB MANA	NCSBA
Maria Gaden	GSK
Amy McKinley	NE Bev Assn

**VISITOR REGISTRATION SHEET**

**Senate Rules and Operations of the Senate**  
**Committee Name**

Date

June 20, 2012

**VISITORS: PLEASE SIGN IN BELOW**  
**AND RETURN TO COMMITTEE CLERK,**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Michael Houser	NCOR
Beth Melcher	DHHS
TC Slippery	DOJ
Kelly Curcio	DMA
Steve Jordan	DMH/DASAS
Jeff HUNT	JA
Clare Fitzgerald	DBNR
Sandra DeLo	CCS
BERRY JONES	CAROLINAS AGC
Ellis Powell	CAPA
Annaliese Dalph	DRNC
John McCall	Poly Group
Jul Don	Bank: 1250
Barbara Condon	BBGR
Kathryn Westcott	AFCC/NC

# VISITOR REGISTRATION SHEET

Senate Rules and Operations of the Senate  
Committee Name

Date

June 20, 2012

VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK,

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Elife Quick	truth & justice
Chris Jones	DNCF
Crystal Collins	NC Trucking Assoc.
Dwight Larkman	USG
George Stephenson	USG
Annie Murtha	DCR
Susanne Davis	Gov Office
Stephanie Hawco	WPTF Radio
Jay Joine	Journalist
Julie White	NCMNC
Dr. Ann C. Pugh	CSS
Amanda Dixon	Sen. Hise's Office
Shelly Carver	Sen. Hise
BRIAN INGRAHAM	SMOOTH MTN CENTER
ZEB ALLEY	NMRS
JAY PETERS	CSS



# VISITOR REGISTRATION SHEET

Senate Rules and Operations of the Senate  
Committee Name

Date

June 20, 2012

VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Jake Cashion	NC Chamber
Matthew Eisten	Smith Anderson
<del>Doug Cassin</del>	NCSTA
Jerry Pearce	NESTA
RESTON HOWARD	MCIC
PAIGE WORTHAN	LEGISLATIVE REPORTING SERVICE
Wendy Seaman	
JOE LANNIERA	NEZSONS MULLINS
Duffield	TRAC
DOUG HERON	WM
Heather Barnett	WM

VISITOR REGISTRATION SHEET

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NAME	FIRM OR AGENCY AND ADDRESS
Dana Singson	SA
Jennifer Wilkie	NECS
Tommy Sauer	Moore and Van Allen
Wendy Kelly	Providers Council
Meredith Bruden	The Policy Group

NORTH CAROLINA GENERAL ASSEMBLY

COMMITTEE ON RULES AND OPERATIONS OF THE SENATE

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TRANSCRIPT OF THE PROCEEDINGS

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In Raleigh, North Carolina  
Thursday, June 21, 2012, 9:00 a.m.  
Reported by Sarah A. Bowers

Worley Reporting  
P.O. Box 91447  
Raleigh, NC 27675  
919-870-8070

1                   SENATOR APODACA: Good morning, good  
2 morning. Let's get started. Let me first  
3 introduce our pages. Erin Jones, from  
4 Raleigh. Erin, where are you? Welcome.  
5 Darby Harriman. Darby, where are you? There  
6 you are. I see a hand; I don't see Darby.  
7 Welcome, Darby. Grant Herndon, from Durham.  
8 Grant, welcome. Caroline -- is it Turbo?  
9 Welcome. Andrew Reed, from New Bern. Andrew.  
10 And Bailey Turner, from Charlotte. Welcome.

11                   Sergeant-at-Arms today -- boy, we have a  
12 full crew, so y'all better behave. Charles  
13 Marcellus. Erin -- Ernie Sheryll, Glen --  
14 good Lord -- Erikson, Ronald Spann, Billy  
15 Fritscher, and Steve Wilson. Thank you.

16                   Okay. What we're going to do today is,  
17 we'll start off with our ongoing inquiry into  
18 the letter on the floor. And then, we're  
19 going to handle two bills thereafter. So,  
20 members of the committee, we're in the process  
21 of continuing our inquiry in some letters  
22 received from DOT.

23                   As you know, yesterday, we heard from  
24 General Trogdon regarding the understanding of  
25 the relevant events. Today, we have asked the

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/21/12 session

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1 Governor's office to send someone over, and  
2 we're happy to see Pryor Gibson with us.

3 First, we need to pass out some new  
4 exhibits that were provided to us from DOT.  
5 And if we would -- I think we have three or  
6 four. Just basically what the General talked  
7 to us about yesterday. So we'll get those  
8 passed out.

9 At the end, we're going to hear House  
10 Bill 1086 and House Bill 964 in our continuing  
11 efforts to get towards adjournment. So we'll  
12 pass those out. We just didn't want to go  
13 through too much paper and too many trees  
14 killed at one time. So if you have a chance  
15 to pass those out. Okay. Ready? All right.

16 I'd like to invite Pryor up. And I  
17 appreciate him talking to us today. If he  
18 would just give us his accounting of the  
19 relevant events, I'd appreciate it. Pryor,  
20 welcome.

21 MR. GIBSON: Thank you, Tom -- thank you,  
22 Mr. Chairman. With your permission, I'd like  
23 to read a short statement --

24 SENATOR APODACA: Please.

25 MR. GIBSON: -- and then do whatever you

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/21/12 session

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1 tell me to do afterwards.

2 SENATOR APODACA: Please.

3 MR. GIBSON: Okay. Mr. Chairman and  
4 members, thank you for inviting me -- inviting  
5 me to be with you this morning and giving me  
6 the opportunity to address the recent  
7 confusion regarding North Carolina's  
8 investment in infrastructure and  
9 transportation.

10 As you all know, I'm a former member of  
11 the North Carolina House, and I'm now senior  
12 advisor to the Governor, and I serve as  
13 principal liaison for her and to many of you  
14 on occasion as it relates to legislative  
15 matters. Having served both in the  
16 legislature and now with the Governor, I'm  
17 particularly aware of how important it is for  
18 members and officials at the executive branch  
19 to assist members of this body with their  
20 work.

21 At the root of this situation is  
22 administration support for two transportation  
23 projects, in this case, the Mid-Currituck  
24 Bridge and the Gaston Garden Parkway. The  
25 Governor supports these projects, DOT supports

1           these projects, and a bipartisan collection of  
2           members of the General Assembly support these  
3           projects.

4           If you would allow me, Mr. Chairman --

5           SENATOR APODACA: Please.

6           MR. GIBSON: -- I will briefly run  
7           through the events happened last week.

8           In an effort to be responsive to a  
9           request by members of the General Assembly, I  
10          asked -- I called on my -- from my cell to his  
11          cell, I think, Secretary Trogon to send a  
12          letter articulating the administration's  
13          support for the projects, based on a  
14          conversation that I had with two other members  
15          of the General Assembly.

16          Officials at DOT composed a letter and,  
17          last Wednesday, sent me a draft. I reviewed  
18          it and asked the closest attorney I could find  
19          on my way out the door, which in this case was  
20          Deputy Chief Kevin McLaughlin, to assist me in  
21          suggested edits because he was the first  
22          lawyer I could find.

23          I went to DOT approximately 9:30 or so on  
24          Thursday, dropped off the draft with the  
25          letter edits in the margin. I returned --

1           they said they -- they were not done, they  
2           were not ready. Came back about an hour  
3           later, because I had been told that there was  
4           a meeting going on here, that the letters  
5           needed to be done by that time. I was told  
6           that Secretary Trogdon was not there.

7                     I spoke with Deputy Secretary for  
8           Intergovernmental Affairs, Susan Coward. I  
9           told Ms. Coward that the letter was needed by  
10          11, because I was on a timeline and that I  
11          needed to respond to those interested  
12          legislators by that time.

13                    Ms. Coward incorporated the edits in the  
14          final draft letter, and staff from DOT placed  
15          Mr. Trogdon's electronic signature on the  
16          letter. I then took the letters and delivered  
17          them to the two legislators.

18                    Later that day, on a call from Secretary  
19          Trogdon -- I think it was in -- in mid  
20          afternoon -- I found out that he did not like  
21          the edits and he thought they were incorrect,  
22          and he and I decided that we needed to talk  
23          the next day.

24                    Let me conclude with this: at the time I  
25          suggested the edits with -- with discussion



1 with Mr. McLaughlin, I believed that the  
2 litigation -- that -- I believed they were  
3 accurate. At the time, I also believed Deputy  
4 Secretary Trogdon would have agreed that they  
5 were accurate. Here's why I thought that:

6 Even though Mr. Trogdon had said in the  
7 memo, I think, of June the 8th, even though he  
8 said that the litigation might delay progress  
9 on the projects, I believed that the funds to  
10 be included in the FY 2013 budget, so that if  
11 litigation were resolved, progress on the  
12 projects would be able to go forward.

13 I have had some experience with GAP  
14 funding in my years past with Monroe Project  
15 and these projects. I understand enough about  
16 the GAP process to know how difficult it is  
17 and how charged it is and, more importantly,  
18 how difficult it is to find money for  
19 transportation.

20 It turns out that I had incomplete  
21 information. Mr. Trogdon, as we know now,  
22 possessed information that I did not have. He  
23 knew that if the litigation were resolved that  
24 progress could still be made on the projects  
25 even though there were no funds in the FY 2013

1 projects. It was that misunderstanding that  
2 led to this confusion we're here talking about  
3 today.

4 I have apologized to Mr. Trogdon, who I  
5 know and respect, in the role that my part in  
6 this had to cause the letter to go out under  
7 his signature that was incorrect. And I also  
8 would like to apologize to Deputy Secretary  
9 Coward, who I have known and been my friend  
10 for more than 20 years.

11 Again, at the time I made the edits and  
12 at the time Secretary -- Deputy Secretary  
13 Coward approved them, she and I -- she and I  
14 assumed that the edits that were being made  
15 were accurate and we both believed that Mr.  
16 Trogdon had approved them. Once again, I  
17 regret that error.

18 And in a short snippet, if I could, Mr.  
19 Chairman --

20 SENATOR APODACA: Please, please.

21 MR. GIBSON: -- and I'll finish. The way  
22 I'm characterizing this or the way it looks  
23 like to me, the best way to explain it to me  
24 as a layperson, if I were looking where you  
25 guys are looking here, I was trying to solve

Transcript of the Proceedings

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1           one problem or one issue for a couple of  
2           legislators, and I created another one. And  
3           for that, I regret.

4           And with that, Mr. Chairman, I'll yield  
5           to any questions.

6           SENATOR APODACA: Thank you. Thank you.  
7           All right. Pryor, I appreciate that. Do we  
8           have questions from the committee? Senator  
9           Hartsell.

10          SENATOR HARTSELL: Pryor, you mentioned  
11          litigation. What litigation are you talking  
12          about and what is the point of it? What's the  
13          claim?

14          MR. GIBSON: The memo -- the memo of 6/8,  
15          I believe, that I was shown by the legislators  
16          that had shown concern indicated that money  
17          was not available because anticipated  
18          litigation were not going to allow the  
19          projects to go forward.

20          SENATOR HARTSELL: Anticipated  
21          litigation?

22          MR. GIBSON: Well, I believe -- I believe  
23          it's certain there was litigation on Monroe  
24          Parkway. That -- that litigation is in the  
25          process.

1                   SENATOR HARTSELL: Is there a stay order  
2                   in the litigation?

3                   MR. GIBSON: I can't answer that, Mr.  
4                   Hartsell.

5                   SENATOR HARTSELL: Thank you.

6                   SENATOR APODACA: Members, I would like  
7                   to ask that we kind of keep our comments and  
8                   questions to the letter in question. That's  
9                   what we're looking at here. We're not looking  
10                  at policy issues. We're looking at what was  
11                  presented on the Senate floor, from that  
12                  point.

13                  Any questions? Senator Meredith.

14                  SENATOR MEREDITH: Yes, sir. I have one  
15                  question. The urgency of the letters -- this  
16                  is my first term, and you had stated you had  
17                  prior terms, and I appreciate your service.

18                  But with the budget, there would be  
19                  conferees appointed, there would be  
20                  negotiations. Why was there such a rush on  
21                  your part to get this letter out for us to  
22                  discuss on the Senate floor when you could  
23                  have done some more research, taken a little  
24                  bit more time, and then when we appointed  
25                  conferees to negotiate the budget, that could

1 have been brought up during that process?

2 MR. GIBSON: Yes, sir. And I appreciate  
3 that question and get just straight to the  
4 point. In all honesty, Senator Meredith, I  
5 wasn't setting the timeline. The two members  
6 that asked for the letters, I got asked about  
7 them on Monday night, I sent the letter to DOT  
8 on Tuesday morning, and then sometime Wed- --  
9 as you know, there's three kinds of time  
10 around here, or speed. There's the speed of  
11 sound, the speed of light and the speed of  
12 legislature.

13 SENATOR MEREDITH: Yes, sir.

14 MR. GIBSON: And some time Wednesday, I  
15 was walking across the bridge or something,  
16 and one of the them grabbed me and said, "I've  
17 got to have this by 11," and that's when I  
18 called again to Secretary Trogdon.

19 I didn't know the immediacy of the  
20 letter. I was trying to do what I do 20 to 30  
21 times a day, accommodate a legislative  
22 request.

23 SENATOR MEREDITH: Thank you.

24 MR. GIBSON: And that was my error; I  
25 should have spent my more time at it.

1                   SENATOR MEREDITH: Thank you. Senator  
2                   Rabon.

3                   SENATOR RABON: Thank you, Mr. Chairman.  
4                   Mr. Gibson, I'm just a little confused on how  
5                   the whole letter-writing sequence got started.  
6                   You know, regarding the Garner Parkway and the  
7                   Mid-Currituck Bridge from two separate  
8                   legislators, one in the House and one in the  
9                   Senate, and this all came down on the same  
10                  day. That's just sort of a little --

11                  MR. GIBSON: I'm not --

12                  SENATOR RABON: Well, can just you tell  
13                  me how this all got started?

14                  MR. GIBSON: Yes, sir. Well, I mean, I  
15                  can do it in short takes.

16                  SENATOR RABON: Sure.

17                  MR. GIBSON: Monday, I got a call. I  
18                  hadn't seen the memo of June -- June 8. And  
19                  Tuesday, sometime during the day, I got a call  
20                  from -- from a senator. And then, I think,  
21                  Tuesday afternoon or Wednesday morning, I was  
22                  walking to another meeting and got grabbed by  
23                  a House member. So that's -- and then, I  
24                  turned over -- then I got -- like I always do,  
25                  I say, "It's kind of busy. If you see want me

1 to get a response to you, send me something in  
2 writing so I have something to use." And both  
3 the senator and the House member sent me  
4 something; I then turned it over to Mr.  
5 Trogdon.

6 SENATOR APODACA: A little follow-up?

7 SENATOR RABON: Please. Thank you, Mr.  
8 Chairman.

9 Then who told you -- what direction did  
10 you have to have -- to have DOT respond to  
11 these? You were asked --

12 MR. GIBSON: Well, I -- yeah, I -- I know  
13 this may not seem -- I would never respond to  
14 a letter on DOT's behalf. I immediately  
15 call -- I got -- I got the letters in question  
16 and I sent them to DOT so that Secretary  
17 Trogdon could see them, because everybody  
18 knows he knows transportation backward and  
19 forward. And that's where the memo of June  
20 8th came from. So he -- and he, to his great  
21 credit, very quickly returned a draft that  
22 caused this issue.

23 He returned the draft. I looked at it  
24 and I said, "Oops, this is not going to solve  
25 or alleviate the concerns for the members that

1           were -- that were complaining." And that's  
2           when I said, "Well, what they're worried about  
3           is the lawsuit stopping these projects." I  
4           added the edit. I had an attorney say, "No,  
5           what you need to say, to say, dependent on  
6           lawsuits, was 'otherwise.'" And that's when I  
7           turned it in. That's when the mess started.

8                     SENATOR APODACA: Hang on one minute.  
9           Hang on to that. Senator Harrington.

10                    SENATOR HARRINGTON: Thank you, Mr.  
11           Chairman.

12                    Can you give us a little more detail  
13           about what happened when you arrived at DOT,  
14           who you approached, who you asked to sign  
15           the letters?

16                    MR. GIBSON: On Thursday morning?

17                    SENATOR HARRINGTON: Yes, sir.

18                    MR. GIBSON: I got a call early Thursday,  
19           said -- probably about 8:30 that Ms. Coward  
20           and others would be working on the draft,  
21           because I had called and said, "Hey, I need  
22           these tomorrow by 11." I went over there  
23           about 9, with the edited letter. 9:30  
24           probably. I said, "This is -- this is my  
25           edits that are here in the margin."



1           They weren't ready, so I left, came to  
2           some meetings here, and went back about 10:45,  
3           and said, "Have you got the letter?" And they  
4           said, "Well, we're still working on it." They  
5           worked on it. And Ms. Coward said, "Do you  
6           want my signature, Mr. Trogdon's signature,  
7           that I can do, or electronic signature," and I  
8           said, "It doesn't matter to me, but I suspect  
9           Mr. Trogdon's signature is best."

10           SENATOR APODACA: Follow-up.

11           SENATOR HARRINGTON: Thank you. At any  
12           point during your conversations with Ms.  
13           Coward, did anyone refuse to sign the letters  
14           at any point?

15           MR. GIBSON: No, ma'am. No.

16           SENATOR APODACA: Senator Newton, was  
17           your hand up?

18           SENATOR NEWTON: Yes, sir. Thank you,  
19           Mr. Chairman.

20           I would like to ask you more  
21           specifically, and make sure I'm not confused.  
22           In response to Senator Rabon's question, I  
23           think you started off in your first answer  
24           saying, "I got a call," and I didn't hear who  
25           that call was from. Who was the first call in

1           regards to this matter, who was that from?

2           MR. GIBSON: I'll be honest with you,  
3           Senator, it may -- it was a member who said,  
4           "What's this letter?" I said, "I don't know  
5           anything about it."

6           I started calling DOT and our folks, but  
7           it was late on Monday. I ended up getting a  
8           copy of the letter from the speaker staff who  
9           had it. That's where I ended up getting a  
10          copy of the letter.

11          SENATOR NEWTON: Follow-up?

12          SENATOR APODACA: Yes, please.

13          SENATOR NEWTON: I'm sorry. Now, I'm  
14          really confused.

15          MR. GIBSON: On Monday night?

16          SENATOR NEWTON: I might be slow this  
17          morning. What letter are you referencing?

18          MR. GIBSON: Oh, I'm sorry. The memo of  
19          6/8, the original memo that Secretary General  
20          Trogon sent over. I had no knowledge of it  
21          until Monday evening when I got a call and  
22          said, "There's a memo that's causing us  
23          heartburn on two transportation projects."

24          SENATOR NEWTON: Follow-up?

25          SENATOR APODACA: Yes, sir.

1           SENATOR NEWTON: So if I understand you  
2           correctly, you're saying that you got a call  
3           from somebody that you can't now remember who  
4           it was from --

5           MR. GIBSON: Well, I --

6           SENATOR NEWTON: -- who initiated this,  
7           and it was in regards to the memo of June, the  
8           8th, where General Trogdon's -- as I read it,  
9           indicated these funds weren't needed for the  
10          year, and then we get into a process of where  
11          you're editing a letter to say something  
12          exactly opposite? You're going to have to  
13          help me understand this. I'm not --

14          MR. GIBSON: Mr. Chairman -- I'd be glad  
15          to. What's your question? I don't know what  
16          the question is.

17          SENATOR NEWTON: My first question was,  
18          who called you? The second one --

19          SENATOR APODACA: Let's answer the first  
20          one first.

21          MR. GIBSON: I sus- -- it was -- I talk  
22          to -- Senator, in all honesty, I talk to about  
23          50 legislators a day. It could have been -- I  
24          mean, names? It could have been Senator  
25          White, could have been Representative Current,

1           could have been Representative Owens. I know  
2           I ended up talking to Chris Hayes in the  
3           speaker's office, because was I looking for a  
4           copy of the letter, and I didn't have one; I  
5           couldn't find anybody that would show it to  
6           me.

7                     But it wasn't until Tuesday, the next  
8           day, that I think I got a call from Senator  
9           White, said, "This is a problem." I said,  
10          "Well, I heard about it. Why don't you send  
11          me a note." And then, either later that  
12          day -- and again, I --

13                    May I make a comment, Mr. Chairman?

14                    SENATOR APODACA: Yeah.

15                    MR. GIBSON: On -- Senator, on a given  
16          day, I do 20 to 30 legislative requests; I do  
17          40 briefings for the Governor's staff. As of  
18          Sunday, I have had 279 texts and 188 phone  
19          calls. I really don't -- I think it was  
20          certainly someone that -- the person that  
21          called me on Monday said, "There's a letter,"  
22          and that's all I remember.

23                    I didn't know what was in the letter. I  
24          didn't really understand what the concerns  
25          were until Tuesday, when the members that

1           asked me to -- that I got letters on asked me  
2           to do something about it, see if I could get  
3           clarification. And that's what I did.

4           And in all honesty, Senator, I probably  
5           do it a hundred times a day, five -- you know,  
6           Monday through Thursday when you all are here,  
7           it's like a zoo. And --

8           SENATOR NEWTON: Tell me about it.

9           SENATOR APODACA: For us, too.

10          MR. GIBSON: And -- and I wish -- I wish  
11          I could say --

12          SENATOR APODACA: That's fine. Do we  
13          have a second question, or are we good?

14          SENATOR NEWTON: No. I'll come back  
15          later.

16          SENATOR APODACA: Senator Rabon.

17          SENATOR RABON: Thank you. I was  
18          listening to your -- thank you, Mr.  
19          Chairman -- to your comments to Senator  
20          Newton. And he alluded to this, and I  
21          believe you said that you edited this letter?

22          MR. GIBSON: Um --

23          SENATOR RABON: This is your -- this is  
24          your writing? And I mean, I saw it in the  
25          newspaper. That's the first place I saw it.

1 MR. GIBSON: I'm sorry. Which -- which  
2 letter, Mr. Rabon?

3 SENATOR RABON: Dated June --

4 SENATOR APODACA: Exhibit --

5 MR. GIBSON: Mr. Chairman, I don't have  
6 an exhibit. There were --

7 SENATOR APODACA: Here you go. 7.

8 MR. GIBSON: Yes, sir. This is the draft  
9 that General Trogdon sent when I said, "Hey,  
10 we've got a problem. Would you look at this  
11 and see if you can address this?" And sent  
12 the -- I think it was the e-mail and letter.

13 SENATOR RABON: Sure.

14 MR. GIBSON: And I got this and I read  
15 through it. And it didn't -- I knew it wasn't  
16 going to alleviate the concerns of the members  
17 that were asking about it. So I said, "What I  
18 need to do is figure out some way to say, 'If  
19 it weren't for the lawsuits, then yes, we  
20 would need the funds.'"

21 And like I said, I walked over and found  
22 Mr. McLaughlin, who's a pretty competent  
23 attorney. I said, "Look, what they're worried  
24 about is that this appears that we don't  
25 support the projects, and we know that's not

1 true. Dr. -- General Trogdon's memo of 6/8 is  
2 completely accurate. But what the problem is,  
3 is that they think this memo says that we  
4 don't support those projects."

5 And what the intent was -- and it was  
6 obviously not a good attempt, Senator -- was  
7 to say, "If it weren't for the lawsuits, these  
8 projects would get funding." That's -- that's  
9 the crux of this whole issue.

10 SENATOR RABON: I see.

11 MR. GIBSON: And in all honesty, Mr.  
12 Chairman, this signature thing, when it  
13 happened, I don't know where all that came  
14 from. This is an effort --

15 And, Senator, you know some of the  
16 projects I have worked on for you, and some of  
17 the others know projects I have worked on for  
18 them. This is an effort to try to completely  
19 illustrate a point so the people understand  
20 what the positions are. And I don't know  
21 about you all, but in our office, we do it --  
22 we literally do dozens of them a day. And I'm  
23 sorry this one has turned into a --

24 SENATOR APODACA: Again, I would like to  
25 say, our inquiry is on this particular letter,

1           who signed it and was it factual, there was --  
2           talked about. So that's what we want to --  
3           we're not on policy here. Some of us agree  
4           with policy; some of us don't.

5           Senator Stein.

6           SENATOR STEIN: A couple of questions:  
7           Is -- is your view that the letter that you  
8           edited, that it was accurate at the end of the  
9           day?

10          MR. GIBSON: Yes, sir. Absolutely.

11          SENATOR STEIN: Had Mr. Trogdon --  
12          follow-up?

13          SENATOR APODACA: Sure, go ahead.

14          SENATOR STEIN: Had Mr. Trogdon been  
15          there to review your edits and disagreed with  
16          the way you edited this letter, would you have  
17          insisted that he sign the letter?

18          MR. GIBSON: Absolutely not. Everyone in  
19          their right mind completely trusts what  
20          General Trogdon says and does, and I do, too.  
21          I was under the impression that the edit, that  
22          sentence on the side, would be fine.

23          SENATOR STEIN: So would you characterize  
24          this as a rushed job?

25          MR. GIBSON: I would characterize it, as



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1 I did before, in an attempt for me to do  
2 something for other members, I made a -- I  
3 made a mistake or I didn't -- I was going too  
4 fast to do the proper quality checks. Yes,  
5 sir.

6 SENATOR STEIN: If this were -- I mean, I  
7 think it's fair to say this was sloppy. Do  
8 you regret that this was done --

9 MR. GIBSON: Absolutely.

10 SENATOR STEIN: -- in the way it was  
11 done?

12 MR. GIBSON: I think "regret" would be a  
13 soft word.

14 SENATOR STEIN: Thank you.

15 SENATOR APODACA: Any further questions  
16 from the committee? Senator Rabon, I'm giving  
17 you one more.

18 SENATOR RABON: Is that all?

19 SENATOR APODACA: That's it.

20 SENATOR RABON: Okay. Well, I have got a  
21 list.

22 SENATOR APODACA: All right.

23 SENATOR RABON: Just going back to the  
24 letter, I keep scratching my head over here.  
25 I assume that you knew at your 9 o'clock, when

1           you went in, that General Trogdon was not  
2           there?

3           MR. GIBSON: Yes, sir. And I was told --  
4           I got a voicemail saying, "Go over and work  
5           with his staff."

6           SENATOR RABON: And I assume you knew on  
7           Wednesday that General Trogdon was not going  
8           to be there on Thursday?

9           MR. GIBSON: No, sir. I did not.

10          SENATOR RABON: You did not.

11          MR. GIBSON: No.

12          SENATOR RABON: Not in touch with him,  
13          one way or the other.

14                 I still -- you know, I just have a hard  
15                 time -- when I look at this and see a modified  
16                 draft, if you will, I have a hard time  
17                 understanding how someone in General Trogdon's  
18                 office would, without putting up any -- any  
19                 sort of effort at all to sign this thing or  
20                 even suggesting that maybe they should contact  
21                 the General before they do something to change  
22                 the money and dates, a major impact to the  
23                 letter, that no one felt pressured? You  
24                 didn't have to ask them more than once or make  
25                 any other special requests of anyone in that

1 office?

2 MR. GIBSON: I'm sorry. The question is,  
3 did I -- is there a question? I want to  
4 answer the question.

5 SENATOR RABON: Yeah. You alluded to the  
6 fact that this was just as smooth as butter.

7 MR. GIBSON: No. No, sir. It was -- I  
8 was under -- I was trying to get something by  
9 11 o'clock. It wasn't smooth.

10 SENATOR APODACA: Let me synopsize the  
11 question, and then you correct me if I am  
12 wrong.

13 Was anybody pressured to sign this letter  
14 that didn't want to sign it?

15 MR. GIBSON: Not -- not to my knowledge.  
16 Senator, you and I have worked on some things.  
17 I don't -- think it's fair to say that that's  
18 not how I work.

19 SENATOR APODACA: Okay.

20 MR. GIBSON: No, sir. If there was  
21 pressure, it was not antic- --

22 SENATOR HARTSELL: Follow-up?

23 MR. GIBSON: -- was not intended.

24 SENATOR RABON: Two follow-ups. You're  
25 going to get on me, Mr. Chairman, but it's a

1           little bit about procedure, but I would like  
2           to get it out.

3           SENATOR APODACA: You can throw it out.  
4           We'll see where it goes.

5           SENATOR RABON: How -- how many copies  
6           did you get or did receive from DOT and to  
7           whom did you deliver those?

8           MR. GIBSON: I think there were -- I  
9           think four copies. And I kept one for me and  
10          I gave the other copies to the members that  
11          asked for them.

12          SENATOR RABON: And who were they?

13          MR. GIBSON: Senator White and  
14          Representative Current.

15          SENATOR RABON: And there was a fourth  
16          copy.

17          MR. GIBSON: I kept one.

18          SENATOR RABON: There were four copies,  
19          you said. One for you --

20          MR. GIBSON: I kept one. I gave the  
21          other copies to them.

22          SENATOR RABON: We're one short by my  
23          count.

24          MR. GIBSON: I don't know how many  
25          copies. Each one -- may I finish?

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1           SENATOR APODACA: Please.

2           MR. GIBSON: Each one got the extra  
3 copies.

4           SENATOR RABON: Okay.

5           MR. GIBSON: I kept one copy.

6           SENATOR RABON: I'm with you.

7           SENATOR APODACA: Does that answer?

8           SENATOR RABON: That answers that. One  
9 other thing.

10          SENATOR APODACA: All right.

11          SENATOR RABON: Did it ever occur to you  
12 through this process that you might call an  
13 appropriation chair for transportation in the  
14 House or in the Senate, or notify the House or  
15 the Senate appropriation that might have an  
16 impact on the budget and that maybe we should  
17 be made aware? And is that -- is it normal  
18 that budgetary items go through places other  
19 than through appropriation? Or you know, how  
20 does your office handle that?

21          MR. GIBSON: Well, indirectly, not on --  
22 getting off point. I didn't view it as a  
23 budgetary item, Senator. Obviously, it is in  
24 your opinion. In my --

25          SENATOR APODACA: You know --

1 MR. GIBSON: In my shop, it was about  
2 responding to a legislator.

3 SENATOR APODACA: I'm going to ask -- I'm  
4 going strike that last question because we're  
5 wandering off the reservation. And again, I'm  
6 not going down to policy. I'm worried about  
7 the letter.

8 SENATOR RABON: Thank you.

9 SENATOR APODACA: And any further  
10 questions? Senator Blue.

11 SENATOR BLUE: More of a statement than a  
12 question.

13 SENATOR APODACA: Please, feel free.

14 SENATOR BLUE: Because, you know, I have  
15 been in all kinds of examinations,  
16 cross-examinations, and other kinds of things  
17 in the past. It seems to me, just as a  
18 neutral observer, that there is a process  
19 within DOT for people to affix the General's  
20 signature, whether basically electronically or  
21 otherwise, and he's authorized them to do  
22 that. There was -- nobody has committed  
23 forgery. Nobody's altered a document after  
24 his signature was affixed.

25 It's a process where the person affixing

1           it thought that it would have met the approval  
2           of the General. And once it did not, the  
3           General took steps to straighten it out.

4           And so, I'm trying to figure out, what is  
5           the continuing issue here? If, in fact, the  
6           inquiry is only about the letter, whether the  
7           letter was authorized, whether it was signed  
8           appropriately, and whether the person who  
9           signed it had the authority to sign it. And  
10          unless there's some independent effort to  
11          forge a document, to alter it in a way that's  
12          not authorized, I'm trying to figure out why  
13          we keep --

14          SENATOR APODACA: Well, I think you  
15          summed it up with your first question, "Was  
16          the letter authorized or not?" It sounds like  
17          we're saying it was authorized. But then, we  
18          get a second letter from General Trogon  
19          saying, "Oh, no, this was not authorized."

20          So I think that's the crux of the matter  
21          here, and I think that's what we're focused on  
22          to go to.

23          Senator Brock.

24          SENATOR BROCK: Thank you, Mr. Chairman.

25          Looking at -- you stated that the original

1 draft by General Trogdon, that the DOT would  
2 not support these projects. Looking at  
3 Paragraph 1, again in Paragraph 2, and  
4 Paragraph 3, all says that --

5 SENATOR APODACA: Do you have it in front  
6 of you? Hang on. What are you on?

7 SENATOR BROCK: Exhibit 7, from the June  
8 13th letter.

9 SENATOR APODACA: Okay.

10 SENATOR BROCK: "Committed to moving  
11 forward as expeditiously as possible."

12 MR. GIBSON: Yeah.

13 SENATOR BROCK: The project is a high  
14 priority. And you're saying that this letter  
15 before did not show the importance of DOT,  
16 that they supported the issue. So going to  
17 the -- again, Senator Apodaca, it states --  
18 the letter changing the dates of when this  
19 project would hit.

20 You mentioned we have got this budget  
21 cycle coming up, '12-'13, '13-'14, '14-'15.  
22 We're looking at fiscal year 2014, which was  
23 scratched out, and you put in, "in this budget  
24 cycle." This letter was right before our  
25 budget. Was this to influence the



1 decision-making process of the budget, saying  
2 that we had to do it in this budget cycle when  
3 the General had fiscal year '14 on this?

4 MR. GIBSON: No, sir. No, sir. What  
5 that -- that little thing that you're  
6 referencing, that goes with the edit in the  
7 margin. In other words, again, may I state,  
8 Mr. Chairman --

9 SENATOR APODACA: Please.

10 MR. GIBSON: This little margin edit is  
11 only -- this whole sentence, issue, was to  
12 address concerns by two members that said, "It  
13 doesn't appear the administration is  
14 supporting this project."

15 So you need to take that little squiggly  
16 that says, "In this budget cycle," and put it  
17 up there with, "This important project as soon  
18 as possible in this budget's cycle." In other  
19 words, that addition goes with that. And the  
20 sentence reads, "If it weren't for the  
21 lawsuits, we would need the money in this  
22 cycle." But as General Trogon appropriately  
23 pointed out in one of the other memos, he had  
24 another way, and I didn't know that when this  
25 all happened.

1                   SENATOR APODACA: And that's your writing  
2                   that --

3                   MR. GIBSON: No, sir. That's Kevin's  
4                   writing.

5                   SENATOR APODACA: Okay. All right.

6                   MR. GIBSON: I did have a draft  
7                   somewhere, but it's gone, but it was even  
8                   worse than that one.

9                   SENATOR APODACA: Okay. Follow-up.

10                  SENATOR BROCK: Just a quick follow-up.  
11                  Now, I just want to note, before, when you  
12                  first looked at this letter, you said that  
13                  this was your handwriting.

14                  MR. GIBSON: No, sir. That's not my  
15                  handwriting.

16                  SENATOR BROCK: I apologize, Mr.  
17                  Chairman. I thought he said that was his  
18                  handwriting before.

19                  SENATOR APODACA: No. I think he  
20                  mentioned before --

21                  MR. GIBSON: Yeah. There's one in  
22                  recycle somewhere that I made edits that were  
23                  not very smart.

24                  SENATOR APODACA: That's a judgment.

25                  MR. GIBSON: Well, I am a House member.

1                   SENATOR APODACA: Okay. Senator Brown.

2                   SENATOR BROWN: Pryor, on Senator White's  
3 letter, it acknowledged ferry issues. Exactly  
4 what does that mean?

5                   MR. GIBSON: Thank you, Senator Brown.  
6 What was going -- what I noticed in this  
7 letter, this was on the one I had, the one  
8 that was going back to Mr. Current. What I  
9 noticed in that letter that was going to Mr.  
10 White, he -- I remembered that he also, in his  
11 letter, had said something about ferry  
12 tolling. And I -- that was my note. That is  
13 my writing, Mr. Chairman. That's my note to  
14 remind myself to ask General Trogdon to  
15 address that in the response, too. Does  
16 that -- does that make sense?

17                   SENATOR BROWN: Yes.

18                   MR. GIBSON: Senator White's letter had,  
19 I think, three things in it. One was the  
20 Mid-Currituck, one was ferry tolling, and then  
21 there was something else.

22                   SENATOR PRESTON: Cell tower.

23                   MR. GIBSON: Oh, yes. We have got a real  
24 bad cell tower issue, foundation, I think, in  
25 Dare County. And I think -- that piece of --

1 the ferry, just so you know, so there's not  
2 another edit out in -- out in the world,  
3 there's somewhere in JPS, there's a note  
4 saying, "Please look into this cracked  
5 foundation of this tower, I think, in Dare  
6 County or Pasquotank County because it's a big  
7 deal. There's a lawsuit involved.

8 SENATOR APODACA: All right.

9 SENATOR BROWN: One more question.

10 SENATOR APODACA: All right, Senator  
11 Brown.

12 SENATOR BROWN: Why was it so important  
13 to have these -- in your opinion, why was it  
14 so important to have these letters back to the  
15 members by 11 o'clock?

16 MR. GIBSON: In all, honesty, Harry, I  
17 don't know. They -- it was one of the  
18 conversations. I didn't even ask. I found  
19 out later there was obviously a budget  
20 meeting. I didn't know that at the time. I  
21 just heard 11 o'clock, and that's -- you know,  
22 9 o'clock be at finance. At the time that all  
23 this was transpiring, I didn't know why they  
24 needed it by 11. I found out after the fact  
25 that there was obviously a budget discussion

1 going on.

2 SENATOR BROWN: Okay.

3 SENATOR APODACA: Somebody's phone is  
4 ringing. Pryor, I want to thank you for  
5 coming forward today.

6 MR. GIBSON: It's always an adventure,  
7 Mr. Chairman.

8 SENATOR APODACA: It is for us, too,  
9 Pryor. And thank you for your honesty and  
10 coming forward and answering any questions.

11 MR. GIBSON: I would always be proud to,  
12 Mr. Chairman.

13 SENATOR APODACA: What we're going to do  
14 next, folks, is we're going to take a weekend  
15 off, and we'll be back Tuesday morning, and  
16 we're going to decide the direction we're  
17 going to go with this. I'm asking staff to  
18 get the floor debate on the budget  
19 transcribed. We'll put that in the record.  
20 And then, we'll go from that point. So --

21 SENATOR NESBITT: Mr. Chairman?

22 SENATOR APODACA: Yes, sir.

23 SENATOR NESBITT: Can they also bring a  
24 copy of the amendment that was offered?

25 SENATOR APODACA: Yes, sir. It should be

1 in your packet. It was exhibit --

2 CAROLYN GOODEN (STAFF): Amendment 9.

3 SENATOR APODACA: It was Amendment 9,  
4 Exhibit --

5 SENATOR NESBITT: I don't have a packet.

6 MS. GOODEN: You were given it  
7 yesterday.

8 SENATOR NESBITT: It's somewhere beside  
9 with me.

10 SENATOR APODACA: Yeah. We'll get you  
11 another one, Senator.

12 Let's take a moment and let's pass out  
13 House Bill 1096, please, and then we'll go to  
14 that.

15 Senator Tillman, are you ready to go?  
16 Next bill is House Bill 1096, simplify  
17 beverage contract bid. Senator Tillman. We  
18 have a PCS. Senator Brock moves we bring it  
19 forward for discussion purposes only. All in  
20 favor, say, "Aye." I can't hear you. All in  
21 favor, say, "Aye."

22 (Voice vote.)

23 SENATOR APODACA: That's good. Any  
24 opposed? It is before us.

25 SENATOR TILLMAN: Mr. Chairman, thank

1           you. Mr. Chairman and members of the  
2           committee, thank you for allowing the  
3           opportunity to hear this PCS.

4           As you know, now, universities, public  
5           schools, community colleges, by current and  
6           present legislation, are required to do single  
7           bid contracts for juice and beverages. Being  
8           able to do a single contract rather than  
9           individual contracts is a big money saver. I  
10          have heard, and from a lot of people, that  
11          there's \$300- to \$500,000 a year on these big  
12          contracts that can be realized by being able  
13          to allow a single bid rather than the  
14          individual bids.

15          And everybody I have talked to on both  
16          sides, universities, public schools, community  
17          colleges, and the vendors themselves, all  
18          favor this. I don't know and have not seen  
19          any opposition to it. Why we have not done  
20          this before, I don't know. That's what it  
21          does.

22                 SENATOR APODACA: A question from Senator  
23                 Kinnaird.

24                 SENATOR KINNAIRD: I'll move in favorable  
25                 report of the PCS. But I just want to know,

1           what is the genesis of why they had separate  
2           bids? Anybody know?

3           SENATOR TILLMAN: Lady, I think you led  
4           the charge to get that done years ago; way  
5           before I was born. I love you, Ellie.

6           SENATOR APODACA: Okay. All right. Does  
7           that satisfy you, Senator?

8           SENATOR KINNAIRD: I'm satisfied.

9           SENATOR NESBITT: She made a favor.

10          SENATOR KINNAIRD: I did move for a  
11          favor.

12          SENATOR APODACA: Yes, ma'am. We'll hold  
13          that motion. Senator Nesbitt.

14          SENATOR NESBITT: My question is,  
15          somebody, for some reason, did this. I know  
16          juice is extremely high in sugar content,  
17          probably higher than Coke, or as high. And  
18          was there some reason that we wanted separate  
19          bids so that they could choose not to buy the  
20          juice?

21          SENATOR TILLMAN: Senator, somewhere  
22          along the line, I remember sugar getting into  
23          the equation, but the contracts would be --  
24          you could do or not do that part of it, but  
25          you're still doing it on a single bid. And



1.           you still would have the option of whether to  
2.           put that in the bid or not. But if you're  
3.           going to have them, we just might as well take  
4.           advantage of the price break.

5.           SENATOR APODACA: Any other questions?  
6.           Senator Kinnaird moves we approve the PCS, not  
7.           approve the original bill. All in favor, say,  
8.           "Aye."

9.           (Voice vote.)

10.          SENATOR APODACA: Opposed, "no." No  
11.          opposed. So passes.

12.          All right. Next, we're going to do House  
13.          Bill 964. Senator Hise will give you the  
14.          title. I can't pronounce the word.

15.          SENATOR HISE: And Senator Brock has an  
16.          amendment.

17.          SENATOR APODACA: Senator Brock. Okay.  
18.          So explain the bill, and then we'll send forth  
19.          the amendment.

20.          SENATOR HISE: That's fine. House Bill  
21.          964 is a North Carolina longitudinal data  
22.          system. This is a follow-up from a grant  
23.          received to DPI that was worked on by the  
24.          e-Learning Commission and several others.

25.          A lot of you have heard, with the unique

1 student identifier that they received, this  
2 creates oversight for the project and, most  
3 importantly, includes protections for the  
4 independent colleges and universities in North  
5 Carolina, that if they submit their data to  
6 the state they are not liable for what may  
7 happen to the state. That's hugely important  
8 in letting them participate in that process,  
9 as well.

10 And I think this is a monumental step  
11 forward in us being able to track outcomes in  
12 education and identify what programs are  
13 successful moving forward. I'd be more than  
14 happy to answer any questions you have on the  
15 bill.

16 SENATOR APODACA: Senator Brock is going  
17 to send forth an amendment. Let's do that  
18 first.

19 SENATOR BROCK: Thank you, Mr. Chairman.

20 SENATOR APODACA: Senator Brock, explain  
21 your amendment, please.

22 SENATOR BROCK: This amendment merely  
23 puts the state controller onto the board. I  
24 think with the good job he's done on a lot of  
25 other of our data projects we have in the

1 state that his expertise, it would be great  
2 for him to be on the board.

3 SENATOR APODACA: Any questions on the  
4 amendment? Senator Blue?

5 SENATOR BLUE: Never mind.

6 SENATOR APODACA: Oh, okay.

7 All right. Senator Brock moves we adopt  
8 the amendment. All in favor, say, "Aye."

9 (Voice vote.)

10 SENATOR APODACA: Opposed, "No." Passes.

11 All right. Back to the bill. Senator  
12 Blue.

13 SENATOR BLUE: How do you restrict  
14 liability on the part of these entities that  
15 just joined the reporting when somebody else  
16 clearly is responsible for the breach anyhow?

17 SENATOR HISE: It is my understanding  
18 that under the Educational Rights and Privacy  
19 Act, a private institution or any institution  
20 that collects the data has responsibility for  
21 the data. So if they turn it over to a third  
22 party and something happened -- which we have  
23 got plenty of protections in here based on  
24 behalf of the state to say those won't -- but  
25 I think if something happened, the

1           universities could wind -- that turned the  
2           data over could wind up having liability come  
3           back to them, except for the fact of the  
4           protections that we provide in this. And  
5           that's what they're asking for. It's my  
6           understanding that it's because of federal law  
7           may put that requirement on them unless we  
8           release them from it.

9           SENATOR BLUE: I think that it just makes  
10          common sense.

11          SENATOR APODACA: Is that a motion for  
12          favorable report?

13          SENATOR BLUE: Sure.

14          SENATOR APODACA: Senator Blue moves for  
15          a motion for favorable report as House Bill  
16          109- -- what is it -- -964 as amended. Any  
17          discussion or debate? All in favor, say,  
18          "Aye."

19          (Voice vote.)

20          SENATOR APODACA: Opposed? So passes.

21          All right. We have got one more to  
22          finish up. I think -- does everybody have a  
23          copy of Senator Hartsell's bill from  
24          yesterday? HB. Okay.

25          We're going to have a new PCS that's just

1 rolling in the amendment that was put in  
2 yesterday. Senator Jackson moves we bring the  
3 PCS before us for consideration. All in  
4 favor, say, "Aye."

5 (Voice vote.)

6 SENATOR APODACA: Opposed, "No."

7 It is now before us. PCS is being passed  
8 out.

9 SENATOR HARTSELL: Mr. Chairman, I need  
10 to send forward another amendment that's being  
11 distributed.

12 SENATOR APODACA: Please, go ahead.  
13 Senator Hartsell sends forward an amendment.  
14 Senator Hartsell, would you be -- do members  
15 have a copy of the amendment?

16 SENATOR HARTSELL: They are being  
17 distributed.

18 SENATOR NESBITT: Is this an explanation  
19 of the PCS or --

20 SENATOR HARTSELL: It's an explanation of  
21 the PCS as it existed yesterday. The only  
22 change that was made in this PCS that you have  
23 before you now is the date and the amendment  
24 that was adopted yesterday. That's the only  
25 difference. So there's no real change in the

1 substance of the PCS.

2 There is a separate amendment that's  
3 being sent forth that actually is from what  
4 has been negotiated as to the appeals process.

5 If -- I would like to -- Mr. Senator --  
6 Mr. Parker --

7 SENATOR APODACA: Demote him.

8 SENATOR HARTSELL: Might as well be.

9 Yeah. Could he explain?

10 SENATOR APODACA: Please. Mr. Parker,  
11 would you be kind enough to explain the  
12 amendment?

13 MR. PARKER: The committee substitute  
14 that was put before the committee yesterday,  
15 Section 14, was an effort to include or be  
16 sure that the LMEs/MCOs would be going through  
17 the recipient appeal process that was set up  
18 in 108A. The language there -- what was  
19 offered was just to include that group within  
20 the definition of department who -- where you  
21 read through the process, all the process  
22 speaks to how the "department provides," a  
23 "department shall," and so that was to include  
24 them.

25 However, as written there, the AG's

1 office and the department and other  
2 stakeholders had indicated that it might be  
3 too broadly termed because it utilizes while  
4 the same definition as in the recipient -- or  
5 in the provider appeal; it may be too broad by  
6 indicating "vendor," and such.

7 And so they were instructed, after the  
8 committee meeting, to get together and come up  
9 with language that was more compromised or  
10 more narrowly approached so it would only  
11 affect the LMEs who are in the MCO operation  
12 style. So that is what the amendment does.  
13 So it replaces the definition there in Section  
14 14 and puts in a new Section 14.

15 And as you can see, the reference to what  
16 the department will include is the -- an  
17 entity operating the PHI -- PIHP, which is  
18 your LME operating as an MCO. And then it  
19 further provides any -- notwithstanding any  
20 law or rules, that this section will govern  
21 the appeals process and that an LME/MCO  
22 through this process would be required to do a  
23 mediation, that is what's standard for all  
24 others going through the process.

25 And then, in Section C in the notice, it's

1           just again references that it is in accordance  
2           to what -- the conforming language. And then,  
3           finally, in D, it replaces where the appeal  
4           request would go to, just to OAH, not to OAH  
5           and the department. And that is the only  
6           difference.

7           SENATOR APODACA: Questions on the  
8           amendment? Senator Hartsell moves we adopt  
9           the amendment. All in favor, say, "Aye."

10                         (Voice vote.)

11           SENATOR APODACA: Opposed, "No." Okay.  
12           The bill as amended is before us. Questions  
13           for Senator Hartsell?

14           Senator Nesbitt, did you get a chance to  
15           be all right on this now?

16           SENATOR NESBITT: I'm not all right on  
17           it, but I'm quiet.

18           SENATOR APODACA: Senator Nesbitt, that's  
19           a start.

20           Okay. We have a motion. Senator Brown  
21           moves that we -- favorable to the PCS,  
22           unfavorable to the original bill, roll the  
23           amendment in and send it forward as approved  
24           as the committee substitute.

25                         Senator Mansfield.



1           SENATOR MANSFIELD: Senator Hartsell, I  
2           still have a question on Section 6 about the  
3           LME being able to add counties without  
4           unanimous approval. My question still is, if  
5           you have -- say they're trying to catch six  
6           counties, and one of those six don't want to  
7           be in it, and no one in the county wants to be  
8           a part of this LME, can the five -- can the  
9           votes from the other five overrule that one  
10          county? And I couldn't figure it out from  
11          reading in the body of the bill was that  
12          possible or not. I mean, could they basically  
13          strong-arm another county to come in?

14          SENATOR HARTSELL: The actual structures,  
15          with respect to 11 or 12 -- 11 or 12 LMEs and  
16          the counties that are associated with them are  
17          already identified. This has to do with going  
18          forward.

19          SENATOR MANSFIELD: Right.

20          SENATOR HARTSELL: -- as to other -- you  
21          know, because somebody's got -- every county  
22          has got to be in some LME. And that's -- and  
23          it's designed to approach that. Because there  
24          is -- and there is a great deal of disruption,  
25          quite honestly, both for the old LME and the

1 new LME if a county moves.

2 We had a very serious problem up in the  
3 New River, up in the northwestern part of the  
4 state last fall when all sorts of things fell  
5 apart and folks didn't get services. And it  
6 was a real problem. So it's designed to try  
7 to accommodate the situation, but the fact is  
8 that somebody's got to be -- the area has got  
9 to be in some LME. And this language is  
10 designed to at least accomplish that in some  
11 fashion.

12 I might add, this actually came out of  
13 the original recommendation of the  
14 subcommittee, and this has not changed that we  
15 can identify to any degree at all.

16 SENATOR MANSFIELD: Follow-up, Mr.  
17 Chairman?

18 SENATOR APODACA: Yes, sir. Please.

19 SENATOR MANSFIELD: I understand that,  
20 and I get it. But my question is, if they  
21 don't want to be a part of the contiguous  
22 counties and say they want to be part of the  
23 other LME do the -- do the --

24 SENATOR APODACA: Mr. Parker may be able  
25 to answer that more precisely than the other

1 lawyer up here speaking.

2 MR. PARKER: Currently, in statute,  
3 there's a process for a county to disengage  
4 from its LME relationship. This bill, in a  
5 different section, actually puts a two-year  
6 moratorium on it just so that, based on  
7 catchment and capitation, which they are  
8 basing their budgets on, that one will not.

9 During that time, the secretary has  
10 directed to establish a process so, therefore,  
11 if you're in an LME and you're a county and  
12 you do not want to be in that LME anymore,  
13 there will be a process set up for you to  
14 change your relationship with that. And then  
15 in that process, it's going to account for  
16 where you're going to go to and all those  
17 things will have to be in place, how you'll  
18 distribute property or anything along those  
19 lines.

20 But right now, in law, there's a way for  
21 someone to get out, and that's frozen.

22 SENATOR MANSFIELD: Another follow-up;  
23 Mr. Chairman?

24 SENATOR APODACA: Please.

25 SENATOR MANSFIELD: And along with that.

1           second year, which is my other question, the  
2           reason why we're doing two years to make  
3           someone wait is really just because of  
4           legislative process? I mean, to me, it seems  
5           that if someone doesn't want to be a part of  
6           an LME, requiring them to wait an additional  
7           two years, unless it's for an administrative  
8           reason -- which makes sense, to make sure  
9           there is reasonable and fair dissolution of  
10          properties and that kind of stuff, which  
11          probably would take two years -- I get that.  
12          But is there any other reason besides that?  
13          Is two years an arbitrary number that we gave  
14          or is it something --

15                 MR. PARKER: I think that from debate in  
16          subcommittee, I believe, it termed out the  
17          two-year freeze. It was to keep all the  
18          catchments as they are currently as this goes  
19          forward with the thought that the next General  
20          Assembly could come in, in that time, and if  
21          it's clear how the process would work quicker,  
22          then they could quickly change the law to do  
23          so..

24                 SENATOR APODACA: Senator Nesbitt.

25                 SENATOR NESBITT: Just to add a little

1 bit to this. One of the things that's going  
2 on here and what's fundamentally flawed in  
3 this, in my understanding, is that we're  
4 taking the counties out of this, slowly but  
5 surely.

6 It used to be that all the counties has  
7 to agree because it was their LME. It was a  
8 joint venture of a number of counties that did  
9 this before you could change it. They all had  
10 to agree because you didn't want forced  
11 partnerships.

12 What's happening with this whole scheme  
13 of things, last year, we said the counties  
14 aren't responsible. Now, we're saying they  
15 may not even be able to put one of their  
16 members on the board. And you're moving away  
17 from county control of these things and  
18 creating freestanding entities, and I'm not  
19 sure who they belong to.

20 And as part of that, in two years, these  
21 people will be able to move from one to the  
22 other without getting all the counties to  
23 agree to let them in or get them out, and I'm  
24 not sure that's healthy.

25 That's kind of what I have been

1 protesting all along because interlocal  
2 agreements are a good thing, and regional  
3 agreements are a good thing, and counties  
4 working together are a good thing; and when  
5 you take the counties out of it, I'm not sure  
6 how it works, just out here existing.

7 SENATOR HARTSELL: Quite candidly, I  
8 don't know that I disagree necessarily with  
9 Senator Nesbitt. But I do know, in terms of  
10 managed care, you have got to have a certain  
11 population in order to make the whole  
12 situation work, and that's the reason for the  
13 process in this situation.

14 To be honest with you, I tend to think  
15 that we have, in this context, we probably  
16 have too many LMEs, but we'll -- we'll have to  
17 address that as we move forward.

18 SENATOR APODACA: Okay. We have a motion  
19 before us for favorable report. All those in  
20 favor, say, "Aye."

21 (Voice vote.)

22 SENATOR APODACA: Opposed, "No."

23 SENATOR NESBITT: No.

24 SENATOR APODACA: Okay. It passes.

25 All right. That's it for the day. We'll

1           be back 9 o'clock, Tuesday morning.

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**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/21/12 session

54

1 State of North Carolina )

2 County of Wake )

3

4 I, Sarah A. Bowers, a Notary Public of the State

5

6 of North Carolina, County of Wake, do hereby certify

7

8 that I was authorized to and did stenographically report

9

10 the foregoing proceedings and that the transcript is a

11

12 true and complete record of my stenographic notes.

13

14 As witnessed by my hand this 6th day of July,

15

16 2012.

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Sarah A. Bowers

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24

Notary Public No. 200620500044

25



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

3

HOUSE BILL 964  
Committee Substitute Favorable 6/12/12  
Third Edition Engrossed 6/13/12

Short Title: NC Longitudinal Data System.

(Public)

Sponsors:

Referred to:

May 17, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO CREATE THE NORTH CAROLINA LONGITUDINAL DATA SYSTEM AND  
3 GOVERNING BOARD; AND TO PROVIDE THAT PRIVATE COLLEGES AND  
4 UNIVERSITIES, NONPUBLIC SCHOOLS, AND THE NORTH CAROLINA  
5 INDEPENDENT COLLEGES AND UNIVERSITIES ARE NOT LIABLE FOR A  
6 BREACH OF CONFIDENTIALITY CAUSED BY THE ACT OR OMISSION OF A  
7 STATE AGENCY, LOCAL SCHOOL ADMINISTRATIVE UNIT, COMMUNITY  
8 COLLEGE, OR CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH  
9 CAROLINA.

10 The General Assembly of North Carolina enacts:

11 SECTION 1.(a) The General Statutes are amended by adding a new Chapter to  
12 read:

13 "Chapter 116E.

14 "Education Longitudinal Data System.

15 "Article 1.

16 "North Carolina Longitudinal Data System.

17 "§ 116E-1. Definitions.

- 18 (1) "Board" means the governing board of the North Carolina Longitudinal Data  
19 System.
- 20 (2) "De-identified data" means a data set in which parent and student identity  
21 information, including the unique student identifier and student social  
22 security number, has been removed.
- 23 (3) "FERPA" means the federal Family Educational Rights and Privacy Act, 20  
24 U.S.C. § 1232g.
- 25 (4) "Student data" means data relating to student performance. Student data  
26 includes State and national assessments, course enrollment and completion,  
27 grade point average, remediation, retention, degree, diploma or credential  
28 attainment, enrollment, discipline records, and demographic data. Student  
29 data does not include juvenile delinquency records, criminal records, and  
30 medical and health records.
- 31 (5) "System" means the North Carolina Longitudinal Data System.
- 32 (6) "Unique Student Identifier" or "UID" means the identifier assigned to each  
33 student by one of the following:
- 34 a. A local school administrative unit based on the identifier system  
35 developed by the Department of Public Instruction.



1                    b. An institution of higher education, nonpublic school, or other State  
2                    agency operating or overseeing an educational program, if the  
3                    student has not been assigned an identifier by a local school  
4                    administrative unit.

5                    (7) "Workforce data" means data relating to employment status, wage  
6                    information, geographic location of employment, and employer information.

7                    **"§ 116E-2. Purpose of the North Carolina Longitudinal Data System.**

8                    (a) The North Carolina Longitudinal Data System is a statewide data system that  
9                    contains individual-level student data and workforce data from all levels of education and the  
10                   State's workforce. The purpose of the System is to do the following:

11                   (1) Facilitate and enable the exchange of student data among agencies and  
12                   institutions within the State.

13                   (2) Generate timely and accurate information about student performance that  
14                   can be used to improve the State's education system and guide decision  
15                   makers at all levels.

16                   (3) Facilitate and enable the linkage of student data and workforce data.

17                   (b) The linkage of student data and workforce data for the purposes of the System shall  
18                   be limited to no longer than five years from the later of the date of the student's completion of  
19                   secondary education or the date of the student's latest attendance at an institution of higher  
20                   education in the State.

21                   **"§ 116E-3. North Carolina Longitudinal Data System Board.**

22                   (a) There is established the North Carolina Longitudinal Data System Board which  
23                   shall consist of the following 17 members:

24                   (1) The Superintendent of Public Instruction, or the Superintendent's designee.

25                   (2) The President of The University of North Carolina, or the President's  
26                   designee.

27                   (3) The President of the North Carolina Community College System, or the  
28                   President's designee.

29                   (4) The Secretary of the Department of Health and Human Services, or the  
30                   Secretary's designee.

31                   (5) The Assistant Secretary of the Department of Commerce, Division of  
32                   Employment Security, or the Assistant Secretary's designee.

33                   (6) The Secretary of the Department of Revenue, or the Secretary's designee.

34                   (7) The Commissioner of Labor, or the Commissioner's designee.

35                   (8) The President of the North Carolina Independent Colleges and Universities,  
36                   Inc., or the President's designee.

37                   (9) The Commissioner of Motor Vehicles, Department of Transportation, or the  
38                   Commissioner's designee.

39                   (10) The State Chief Information Officer, or the Officer's designee.

40                   (11) Three members appointed by the General Assembly upon the  
41                   recommendation of the President Pro Tempore of the Senate.

42                   (12) Three members appointed by the General Assembly upon the  
43                   recommendation of the Speaker of the House of Representatives.

44                   (13) One member appointed by the Governor, to serve at the Governor's pleasure.

45                   (b) Appointed members of the Board shall serve terms of four years. Appointed  
46                   members may be reappointed but shall not serve more than two consecutive terms. Vacancies  
47                   among appointed members shall be filled by the appointing entity and shall be for the  
48                   remainder of the vacant term.

49                   (c) The Board shall elect from the appointed members a chair and a vice-chair for a  
50                   term of two years. A chair may serve no more than two consecutive terms.

1 (d) The Board shall appoint a Director for the System. The Director shall serve as  
2 secretary to the Board.

3 (e) Members of the Board shall receive such per diem compensation and necessary  
4 travel and subsistence expenses while engaged in the official discharge of the official duties as  
5 is provided by law for members of State boards and commissions.

6 **"§ 116E-4. Powers and duties of the Board.**

7 (a) The Board shall have the following powers and duties:

8 (1) Develop an implementation plan to phase in the establishment and operation  
9 of the System.

10 (2) Provide general oversight and direction to the System.

11 (3) Approve the annual budget for the System.

12 (4) Before the use of any individual data in the System, the Board shall do the  
13 following:

14 a. Create an inventory of the individual student data proposed to be  
15 accessible in the System and required to be reported by State and  
16 federal education mandates.

17 b. Develop and implement policies to comply with FERPA and any  
18 other privacy measures, as required by law or the Board.

19 c. Develop a detailed data security and safeguarding plan that includes  
20 the following:

21 1. Authorized access and authentication for authorized access.

22 2. Privacy compliance standards.

23 3. Privacy and security audits.

24 4. Breach notification and procedures.

25 5. Data retention and disposition policies.

26 (5) Oversee routine and ongoing compliance with FERPA and other relevant  
27 privacy laws and policies.

28 (6) Ensure that any contracts that govern databases that are outsourced to private  
29 vendors include express provisions that safeguard privacy and security and  
30 include penalties for noncompliance.

31 (7) Designate a standard and compliance time line for electronic transcripts that  
32 includes the use of UID to ensure the uniform and efficient transfer of  
33 student data between local school administrative units and institutions of  
34 higher education.

35 (8) Review research requirements and set policies for the approval of data  
36 requests from State and local agencies, the General Assembly, and the  
37 public.

38 (9) Establish an advisory committee on data quality to advise the Board on  
39 issues related to data auditing and tracking to ensure data validity.

40 (b) The Board shall adopt rules according to Chapter 150B of the General Statutes as  
41 provided in G.S. 116E-6 to implement the provisions of this Article.

42 (c) The Board shall report annually to the Joint Legislative Education Oversight  
43 Committee by December 15. The report shall include the following:

44 (1) An update on the implementation of the System's activities.

45 (2) Any proposed or planned expansion of System data.

46 (3) Any other recommendations made by the Board, including the most  
47 effective and efficient configuration for the System.

48 **"§ 116E-5. North Carolina Longitudinal Data System.**

49 (a) There is created the North Carolina Longitudinal Data System. The System shall be  
50 located administratively within the Department of Public Instruction but shall exercise its

1 powers and duties independently of the Department of Public Instruction and the State Board of  
2 Education.

3 (b) The System shall allow users to do the following:

4 (1) Effectively organize, manage, disaggregate, and analyze individual student  
5 and workforce data.

6 (2) Examine student progress and outcomes over time, including preparation for  
7 postsecondary education and the workforce.

8 (c) The System shall be considered an authorized representative of the Department of  
9 Public Instruction, The University of North Carolina, and the North Carolina System of  
10 Community Colleges under applicable federal and State statutes for purposes of accessing and  
11 compiling student record data for research purposes.

12 (d) The System shall perform the following functions and duties:

13 (1) Serve as a data broker for the System, including data maintained by the  
14 following:

15 a. The Department of Public Instruction.

16 b. Local boards of education, local school administrative units, and  
17 charter schools.

18 c. The University of North Carolina and its constituent institutions.

19 d. The Community Colleges System Office and local community  
20 colleges.

21 e. The North Carolina Independent College and Universities, Inc., and  
22 private colleges or universities.

23 f. Nonpublic schools serving elementary and secondary students.

24 g. The Department of Commerce, Division of Employment Security.

25 h. The Department of Revenue.

26 i. The Department of Health and Human Services.

27 j. The Department of Labor.

28 (2) Ensure routine and ongoing compliance with FERPA, the Internal Revenue  
29 Code, and other relevant privacy laws and policies, including the following:

30 a. The required use of de-identified data in data research and reporting.

31 b. The required disposition of information that is no longer needed.

32 c. Providing data security, including the capacity for audit trails.

33 d. Providing for performance of regular audits for compliance with data  
34 privacy and security standards.

35 e. Implementing guidelines and policies that prevent the reporting of  
36 other potentially identifying data.

37 (3) Facilitate information and data requests for State and federal education  
38 reporting with existing State agencies as appropriate.

39 (4) Facilitate approved public information requests.

40 (5) Develop a process for obtaining information and data requested by the  
41 General Assembly and Governor of current de-identified data and research.

42 (e) Use of data accessible through the System shall be regulated in the following ways:

43 (1) Direct access to data shall be restricted to authorized staff of the System.

44 (2) Only de-identified data shall be used in the analysis, research, and reporting  
45 conducted by the System.

46 (3) The System shall only use aggregate data in the release of data in reports and  
47 in response to data requests.

48 (4) Data that may be identifiable based on the size or uniqueness of the  
49 population under consideration shall not be reported in any form by the  
50 System.

- 1           (5) The System shall not release information that may not be disclosed under  
2           FERPA, the Internal Revenue Code, and other relevant privacy laws and  
3           policies.
- 4           (6) Individual or personally identifiable data accessed through the System shall  
5           not be a public record under G.S. 132-1.
- 6       (f) The System may receive funding from the following sources:
- 7           (1) State appropriations.
- 8           (2) Grants or other assistance from local school administrative units, community  
9           colleges, constituent institutions of The University of North Carolina, or  
10           private colleges and universities.
- 11           (3) Federal grants.
- 12           (4) Any other grants or contributions from public or private entities received by  
13           the System.

14 **"§ 116E-6. Data sharing.**

15       (a) Local school administrative units, charter schools, community colleges, constituent  
16 institutions of The University of North Carolina, and State agencies shall do all of the  
17 following:

- 18           (1) Comply with the data requirements and implementation schedule for the  
19           System as set forth by the Board.
- 20           (2) Transfer student data and workforce data to the System in accordance with  
21           the data security and safeguarding plan developed by the Board under  
22           G.S. 116E-5.

23       (b) Private colleges and universities, the North Carolina Independent Colleges and  
24 Universities, Inc., and nonpublic schools may transfer student data and workforce data to the  
25 System in accordance with the data security and safeguarding plan developed by the Board  
26 under G.S. 116E-5."

27       SECTION 1.(b) G.S. 105-259(b) is amended by adding a new subdivision to read:

- 28           "(43) To provide data to the North Carolina Longitudinal Data System. Data  
29           provided to the System shall not include information allowing the  
30           identification of specific taxpayers."

31       SECTION 1.(c) Notwithstanding G.S. 116E-6 as created by this act, State agencies  
32 that have not received an appropriation or sufficient grant funding to support participation in a  
33 longitudinal data system shall not be required to submit data to the System prior to July 1,  
34 2015.

35       SECTION 1.(d) Appointments to the North Carolina Longitudinal Data System  
36 Board shall be made by the appointing entity no later than August 1, 2012. The State Board of  
37 Education, the Board of Governors of The University of North Carolina, the State Board of  
38 Community Colleges, the Division of Employment Security of the Department of Commerce,  
39 the Department of Revenue, the Department of Health and Human Services, the Division of  
40 Motor Vehicles of the Department of Transportation, and the Department of Labor, in  
41 consultation with the North Carolina Independent Colleges and Universities, Inc., shall  
42 establish the North Carolina Longitudinal Data System that shall be fully operational by July 1,  
43 2014. Prior to facilitating access to any individual data in the North Carolina Longitudinal  
44 Data System, the North Carolina Longitudinal Data System Board shall report to the Joint  
45 Legislative Education Oversight Committee on the inventory of individual student data  
46 proposed to be maintained in the System, the policies of the Board to comply with the federal  
47 Family Educational Rights and Privacy Act, Internal Revenue Code and other privacy measures  
48 required by law and the Board, and a data security and safeguarding plan for the System. The  
49 Board shall (i) evaluate the efficiency, effectiveness, and cost in structuring the System as a  
50 federated data system or a centralized data warehouse and (ii) assess the technical capabilities

1 and costs of each entity for data sharing through the System, and shall report to the Joint  
2 Legislative Education Oversight Committee on those issues by January 15, 2013.

3 SECTION 2. Article 39 of Chapter 115C of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 115C-566.1. Disclosure of student data and records by nonpublic schools.**

6 A nonpublic school that discloses personally identifiable information in student data or  
7 records according to the terms of a written agreement with a State agency, local school  
8 administrative unit, community college, or constituent institution of The University of North  
9 Carolina, in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. §  
10 1232g, shall not be liable for a breach of confidentiality, disclosure, use, retention, or  
11 destruction of the student data or records if the breach, disclosure, use, retention, or destruction  
12 results from actions or omissions of either (i) the State agency, local school administrative unit,  
13 community college, or constituent institution of The University of North Carolina to which the  
14 data was provided or (ii) persons provided access to the data or records by those entities."

15 SECTION 3. Chapter 116 of the General Statutes is amended by adding a new  
16 article to read:

17 "Article 27A.

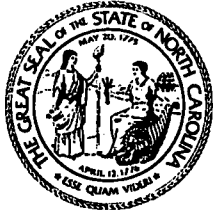
18 "Disclosure of Student Data and Records by Private Institutions.

19 **"§ 116-229.1. Disclosure of student data and records by private colleges and universities.**

20 (a) A private college or university that discloses personally identifiable information in  
21 student data or records according to the terms of a written agreement with a State agency, local  
22 school administrative unit, community college, constituent institution of The University of  
23 North Carolina, or the North Carolina Independent Colleges and Universities, Inc., in  
24 compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, shall not  
25 be liable for a breach of confidentiality, disclosure, use, retention, or destruction of the student  
26 data or records if the breach, disclosure, use, retention, or destruction results from actions or  
27 omissions of either (i) the State agency, local school administrative unit, community college, or  
28 constituent institution of The University of North Carolina to which the data was provided or  
29 (ii) persons provided access to the data or records by those entities.

30 (b) The North Carolina Independent Colleges and Universities, Inc., shall not be liable  
31 for a breach of confidentiality, disclosure, use, retention, or destruction of student data or  
32 records transferred on behalf of a private college or university to a State agency, local school  
33 administrative unit, community college, or constituent institution of The University of North  
34 Carolina if the breach, disclosure, use, retention, or destruction results from actions or  
35 omissions of either (i) the State agency, local school administrative unit, community college, or  
36 constituent institution of The University of North Carolina to which the data was provided or  
37 (ii) persons provided access to the data or records by those entities."

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



# HOUSE BILL 964: NC Longitudinal Data System

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 21, 2012
<b>Introduced by:</b>	Reps. Blackwell, Holloway, Johnson, Jordan	<b>Prepared by:</b>	Kara McCraw
<b>Analysis of:</b>	Third Edition		Committee Counsel

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**SUMMARY:** *HB 964 (3rd Ed.) would establish a Longitudinal Data System containing student and workforce data, and a governing board for that System. HB 964 would also provide that nonpublic schools, private colleges or universities, and the NC Independent Colleges and Universities (NCICU) who share student data would not be liable for data breaches due to the act or omission of the State entity to which the data was provided.*

## **BILL ANALYSIS:**

**Section 1: NC Longitudinal Data System** - Section 1 HB 964 creates a new chapter providing for the North Carolina Longitudinal Data System (System) as follows:

**G.S. 116E-1** – Defines terms throughout the chapter, including the following:

- Student data – Data related to State and national assessments, course enrollment and completion, grade point average, remediation, retention, degree attainment, enrollment, discipline records, and demographic data.
- Workplace data – Data related to employment status, wage information, geographic location of employment, and employer information.

**G.S. 116E-2** – Defines the purpose of the System as a system containing individual-level student data and workforce data to facilitate and enable exchange of student data among agencies, generate timely and accurate information to improve the education system and guide decision making, and facilitate and enable linkage of student data and workforce data. The linkage of data would be limited to the later of 5 years after the student completes secondary education or 5 years after last enrollment in post-secondary education.

**G.S. 116E-3** – Establishes the North Carolina Longitudinal Data System Board (Board) consisting of the following 17 members or their designee:

- Superintendent of Public Instruction
- President of The University of North Carolina
- President of the North Carolina Community College System
- Secretary of the Department of Health and Human Services
- Assistant Secretary of the Department of Commerce, Division of Employment Security
- Secretary of the Department of Revenue
- Commissioner of Labor
- President of the NC Independent Colleges and Universities
- Commissioner of Motor Vehicles, Department of Transportation
- State Chief Information Officer
- 3 members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate

# House Bill 964

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- 3 members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives
- 1 member appointed by the Governor

Appointed members would serve 4 years terms, and may serve no more than 2 consecutive terms. The chair and vice-chair of the Board would be elected from among the appointed members. The Director of the System, appointed by the Board, would serve as Board secretary.

**G.S. 116E-4** – Provides the powers and duties of the Board as follows:

- Develop implementation plan for System, provide oversight, and approve annual budget.
- Establish policies and security plans to comply with privacy laws prior to incorporation of any individual data in System, oversee ongoing compliance with privacy laws, ensure contracts to private vendors address privacy safeguards and include penalties for noncompliance.
- Establish a timeline for efficient transfer of student data.
- Review research requirements and set policies for approval of data requests.
- Establish an advisory committee on data quality to advise Board on data auditing and tracking.

The Board shall adopt rules and must annually report to the Joint Legislative Education Oversight Committee (JLEOC) on the System.

**G.S. 116E-5** – Establishes the NC Longitudinal Data System (System). Locates the System administratively in the Department of Public Instruction (DPI). Directs the System to effectively organize, manage, disaggregate, and analyze student and workforce data, and examine student progress and outcomes over time. The System would be considered a representative of State education agencies under law for compiling data for research purposes.

The System would perform the following functions:

- Serve as a data broker for the System, including data sets provided by State agencies.
- Ensure ongoing compliance with federal and State privacy laws.
- Fulfill information and data requests for education reporting with existing State agencies and approved public information requests.
- Develop a process for obtaining information data requested by the General Assembly and Governor.

Data accessible through the System would be limited as follows:

- Direct data access would be limited to authorized System staff.
- Only de-identified data could be used in research and reporting.
- Only aggregate data could be used in data reports and responses to data requests.
- Data identifiable due to size or uniqueness could not be reported.
- No data could be released that may not be disclosed under federal or State privacy laws.

System funding could be received through appropriations, grants, or other contributions.

**G.S. 116E-6** – Local schools administrative units (LEAs), charter schools, community colleges, constituent institutions of UNC, and State agencies would be required to comply with State requirements and timelines established for the System, and to transfer student and workforce data in accordance with the Board's data security and safeguarding plan. Nonpublic schools, private colleges and universities, and the NC Independent Colleges and Universities may also transfer data in accordance with the data security and safeguarding plan.



# House Bill 964

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**Section 1(b)** creates an exception permitting the Department of Revenue to provide data to the System. The data may not include information allowing the identification of specific taxpayers.

**Section 1(c)** creates an exception to the requirement in G.S. 116E-6, providing that State agencies that have not received an appropriation of sufficient grant funding to support participation in the System are not required to submit data to the System prior to July 1, 2015.

**Section 1(d)** Appointments to the Board must be made by August 1, 2012. The System must be fully operational by July 1, 2014. A report must be made to the JLEOC on privacy and data security plans prior to incorporating individual data. A report must also be made to JLEOC on the efficiency, effectiveness, and cost in structuring the System as a federated data system or a centralized data warehouse and on technical capabilities and costs identified for each entity to enable data sharing by January 15, 2013.

## **Section 2 and 3: Disclosure of Student Data**

**Current Law:** The federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C § 1232g requires educational institutions accepting federal funds to maintain confidentiality in student education records, subject to certain exceptions, including the sharing of education information for studies or for audit/evaluation of programs. In recent rules released by the U.S. Department of Education written agreements are now required for sharing of personally identifiable data under the audit/evaluation exception.

**Bill Analysis:** Sections 2 and 3 of HB 964 establish that a nonpublic K-12 school, private college or university, or the NC Independent Colleges and Universities, Inc. (NCICU), would not be liable for a breach of confidentiality, disclosure, use, retention, or destruction (breach) of student data or records if:

- The data or record was disclosed according to the terms of a written agreement with a State agency, LEA, community college, constituent institution of UNC, or the NCICU in compliance with FERPA.
- The breach resulted from the actions of the State agency, LEA, community college, constituent institution of UNC or a person provided access to the data or records by those entities.

**EFFECTIVE DATE:** HB 964 would become effective when it becomes law.

*H964-SMTC-64(e3) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 1096  
PROPOSED SENATE COMMITTEE SUBSTITUTE H1096-PCS30628-LB-120

Short Title: Simplify Beverage Contract Bids.

(Public)

Sponsors:

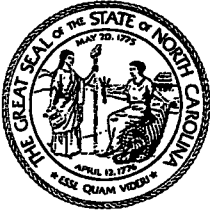
Referred to:

May 24, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO SAVE MONEY BY REPEALING A STATUTE REQUIRING LOCAL  
3 SCHOOL ADMINISTRATIVE UNITS, COMMUNITY COLLEGES, AND THE  
4 UNIVERSITY OF NORTH CAROLINA TO HAVE SEPARATE BIDS FOR JUICE AND  
5 WATER.  
6 The General Assembly of North Carolina enacts:  
7 SECTION 1. G.S. 143-64 is repealed.  
8 SECTION 2. This act is effective when it becomes law.



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# HOUSE BILL 1096: Simplify School Beverage Contract Bids

2011-2012 General Assembly

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<b>Committee:</b>	Senate Rules	<b>Date:</b>	June 21, 2012
<b>Introduced by:</b>	Reps. Sanderson, LaRoque	<b>Prepared by:</b>	Patsy Pierce
<b>Analysis of:</b>	PCS to First Edition H1096-CSLB-120		Legislative Analyst

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**SUMMARY:** *House Bill 1096 would remove local school administrative units from the requirement to obtain separate bids for juice and bottled water contracts. House Bill 1096 is a recommendation of the House Select Committee on Childhood Obesity.*

*The Proposed Committee Substitute for House Bill 1096 repeals the current law and would therefore also remove community colleges and constituent institutions of The University of North Carolina from the separate bidding requirement for juice and water contracts.*

**CURRENT LAW:** G.S. 143-64 requires local school administrative units, community colleges, and constituent institutions of The University of North Carolina to competitively bid contracts for the sale of juice or bottled water. Contracts for these items must be bid separately from each other and from any other contract. Quality standards may be set and used to reject or accept a bid.

**BILL ANALYSIS:** The PCS for House Bill 1096 would repeal G.S. 143-64. Therefore, local school administrative units, community colleges, and constituent institutions of The University of North Carolina would no longer have to competitively bid separate contracts for the sale of juice or bottled water.

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

**BACKGROUND:** House Bill 1096 is a recommendation of the 2012 House Select Committee on Childhood Obesity (Committee). Following the Committee's February 15, 2012 meeting, staff from the Department of Public Instruction provided information indicating that the separate bottled water bidding requirement under G.S. 143-64 creates an annual administrative cost of between \$340,000 and \$500,000 (collectively) for local school administrative units.

H1096-SMTL-66(CSLB-120) v3

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 1075\*  
Committee Substitute Favorable 6/5/12  
Senate Mental Health & Youth Services Committee Substitute Adopted 6/11/12  
PROPOSED SENATE COMMITTEE SUBSTITUTE H1075-PCS70313-SQ-91

Short Title: LME/MCO Governance.

(Public)

Sponsors:

Referred to:

May 24, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CHANGES IN GOVERNANCE OF LOCAL MANAGEMENT  
3 ENTITIES WITH RESPECT TO THE IMPLEMENTATION OF STATEWIDE  
4 EXPANSION OF THE 1915(B)/(C) MEDICAID WAIVER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 122C-115(a) reads as rewritten:

7 "§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and  
8 cities.

9 (a) A county shall provide mental health, developmental disabilities, and substance  
10 abuse services in accordance with rules, policies, and guidelines adopted pursuant to statewide  
11 restructuring of the management responsibilities for the delivery of services for individuals  
12 with mental illness, intellectual or other developmental disabilities, and substance abuse  
13 disorders under a 1915(b)/(c) Medicaid Waiver through an area authority or authority, through  
14 a county program established pursuant to G.S. 122C-115.1, G.S. 122C-115.1, or through a  
15 behavioral health authority established pursuant to Part 2B of this Chapter. Beginning July 1,  
16 2012, the catchment area of an area authority or a county program shall contain a minimum  
17 population of at least 300,000. Beginning July 1, 2013, the catchment area of an area authority  
18 or a county program shall contain a minimum population of at least 500,000. To the extent this  
19 section conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control."

20 SECTION 2.(a) G.S. 122C-116 reads as rewritten:

21 "§ 122C-116. Status of area authority; status of consolidated human services agency.

22 (a) An area authority is a local political subdivision of the State ~~except that a single~~  
23 ~~county area authority is considered a department of the county in which it is located for the~~  
24 ~~purposes of Chapter 159 of the General Statutes.~~ State.

25 (b) A consolidated human services agency is a department of the county."

26 SECTION 2.(b) G.S. 122C-115.1(i) reads as rewritten:

27 "(i) Except as otherwise specifically provided, this Chapter applies to counties that  
28 provide mental health, developmental disabilities, and substance abuse services through a  
29 county program. As used in the applicable sections of this Article, the terms "area authority",  
30 "area program", and "area facility" shall be construed to include "county program". The  
31 following sections of this Article do not apply to county programs:

32 (1) G.S. 122C-115.3, 122C-116, 122C-117, and 122C-118.1.



\* H 1 0 7 5 - P C S 7 0 3 1 3 - S Q - 9 1 \*

- 1 (2) G.S. 122C-119 and G.S. 122C-119.1.
- 2 (3) G.S. 122C-120 and G.S. 122C-121.
- 3 (4) G.S. 122C-127.
- 4 (5) G.S. 122C-147.
- 5 (6) G.S. 122C-152 and G.S. 122C-153.
- 6 (7) G.S. 122C-156.
- 7 (8) G.S. 122C-158."

8 SECTION 3.(a) G.S. 122C-118.1 reads as rewritten:

9 "§ 122C-118.1. Structure of area board.

10 (a) ~~An area board shall have no fewer than 11 and no more than 25 members. However,~~  
11 ~~the area board for a multicounty area authority consisting of eight or more counties may have~~  
12 ~~up to 30 members. In a single county area authority, the members shall be appointed by the~~  
13 ~~board of county commissioners. Except as otherwise provided, in areas consisting of more than~~  
14 ~~one county, each board of county commissioners within the area shall appoint one~~  
15 ~~commissioner as a member of the area board. These members shall appoint the other members.~~  
16 ~~The boards of county commissioners within the multicounty area shall have the option to~~  
17 ~~appoint the members of the area board in a manner other than as required under this section by~~  
18 ~~adopting a resolution to that effect. The boards of county commissioners in a multicounty area~~  
19 ~~authority shall indicate in the business plan each board's method of appointment of the area~~  
20 ~~board members in accordance with G.S. 122C-115.2(b). These appointments shall take into~~  
21 ~~account sufficient citizen participation, representation of the disability groups, and equitable~~  
22 ~~representation of participating counties. Individuals appointed to the board shall include two~~  
23 ~~individuals with financial expertise, an individual with expertise in management or business,~~  
24 ~~and an individual representing the interests of children. A member of the board may be~~  
25 ~~removed with or without cause by the initial appointing authority. Vacancies on the board shall~~  
26 ~~be filled by the initial appointing authority before the end of the term of the vacated seat or~~  
27 ~~within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the~~  
28 ~~remainder of the unexpired term. An area board shall have no fewer than 11 and no more than~~  
29 ~~21 voting members. The board of county commissioners, or the boards of county~~  
30 ~~commissioners within the area, shall appoint members consistent with the requirements~~  
31 ~~provided in subsection (b) of this section. The process for appointing members shall ensure~~  
32 ~~participation from each of the constituent counties of a multicounty area authority. If the board~~  
33 ~~or boards fail to comply with the requirements of subsection (b) of this section, the Secretary~~  
34 ~~shall appoint the unrepresented category. A member of the board may be removed with or~~  
35 ~~without cause by the initial appointing authority. The area board may declare vacant the office~~  
36 ~~of an appointed member who does not attend three consecutive scheduled meetings without~~  
37 ~~justifiable excuse. The chair of the area board shall notify the appropriate appointing authority~~  
38 ~~of any vacancy. Vacancies on the board shall be filled by the initial appointing authority before~~  
39 ~~the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first,~~  
40 ~~and the appointments shall be for the remainder of the unexpired term. The boards of county~~  
41 ~~commissioners within a multicounty area with a catchment population of at least 1,250,000~~  
42 ~~shall have the option to appoint members of the area board in a manner other than as required~~  
43 ~~by this section by each county adopting a resolution to that effect and receiving written~~  
44 ~~approval from the Secretary.~~

45 (b) ~~Except as otherwise~~Within the maximum membership provided in this subsection,  
46 ~~not more than fifty percent (50%) of~~subsection (a) of this section, the membersmembership of  
47 the area board shall reside within the catchment area and represent the following:  
48 be composed  
49 as follows:

- 50 (1) ~~A physician licensed under Chapter 90 of the General Statutes to practice~~  
~~medicine in North Carolina who, when possible, is certified as having~~

1 ~~completed a residency in psychiatry.~~ At least one member who is a current  
2 county commissioner.

3 (2) ~~A clinical professional from the fields of mental health, developmental~~  
4 ~~disabilities, or substance abuse.~~ The chair of the local Consumer and Family  
5 Advisory Committee (CFAC) or the chair's designee.

6 (3) ~~At least one family member or individual from a citizens' organization~~  
7 ~~composed primarily of consumers or their family members,~~ of the local  
8 CFAC, as recommended by the local CFAC, representing the interests of  
9 individuals; the following:

10 a. ~~With~~ Individuals with mental illness; illness.

11 b. ~~In~~ Individuals in recovery from addiction; or addiction.

12 c. ~~With~~ Individuals with intellectual or other developmental disabilities.

13 (4) At least one openly declared consumer member of the local CFAC, as  
14 recommended by the local CFAC, representing the interests of the  
15 following:

16 a. ~~With~~ Individuals with mental illness; illness.

17 b. ~~With~~ Individuals with intellectual or other developmental disabilities;  
18 or disabilities.

19 c. ~~In~~ Individuals in recovery from addiction.

20 (5) An individual with health care expertise and experience in the fields of  
21 mental health, intellectual or other developmental disabilities, or substance  
22 abuse services.

23 (6) An individual with health care administration expertise consistent with the  
24 scale and nature of the managed care organization.

25 (7) An individual with financial expertise consistent with the scale and nature of  
26 the managed care organization.

27 (8) An individual with insurance expertise consistent with the scale and nature  
28 of the managed care organization.

29 (9) An individual with social services expertise and experience in the fields of  
30 mental health, intellectual or other developmental disabilities, or substance  
31 abuse services.

32 (10) An attorney with health care expertise.

33 (11) A member who represents the general public and who is not employed by or  
34 affiliated with the Department of Health and Human Services, as appointed  
35 by the Secretary.

36 (12) The President of the LME/MCO Provider Council or the President's  
37 designee to serve as a nonvoting member who shall participate only in Board  
38 activities that are open to the public.

39 (13) An administrator of a hospital providing mental health, developmental  
40 disabilities, and substance abuse emergency services to serve as a nonvoting  
41 member who shall participate only in Board activities that are open to the  
42 public.

43 ~~An~~ Except as provided in subdivision (12) of this subsection, an individual that contracts  
44 with a local management entity (LME) for the delivery of mental health, developmental  
45 disabilities, and substance abuse services may not serve on the board of the LME for the period  
46 during which the contract for services is in effect. No person registered as a lobbyist under  
47 Chapter 120C of the General Statutes shall be appointed to or serve on an area authority board.  
48 Of the members described in subdivisions (2) through (4) of this subsection, the boards of  
49 county commissioners shall ensure there is at least one member representing the interest of  
50 each of the following: (i) individuals with mental illness, (ii) individuals with intellectual or  
51 other developmental disabilities, and (iii) individuals in recovery from addiction.

1 (c) The board of county commissioners may elect to appoint a member of the area  
2 authority board to fill concurrently no more than two categories of membership if the member  
3 has the qualifications or attributes of the two categories of membership.

4 (d) Any member of an area board who is a county commissioner serves on the board in  
5 an ex officio capacity at the pleasure of the initial appointing authority, for a term not to exceed  
6 the earlier of three years or the member's service as a county commissioner. Any member of an  
7 area board who is a county manager serves on the board at the pleasure of the initial appointing  
8 authority, for a term not to exceed the earlier of three years or the duration of the member's  
9 employment as a county manager. The terms of ~~the other members~~ on the area board shall be  
10 for three years, except that upon the initial formation of an area board in compliance with  
11 subsection (a) of this section, one-third shall be appointed for one year, one-third for two years,  
12 and all remaining members for three years. ~~Members, other than county commissioners and~~  
13 ~~county managers, Members~~ shall not be appointed for more than ~~two~~three consecutive terms.  
14 ~~Board members serving as of July 1, 2006, may remain on the board for one additional term.~~  
15 ~~This subsection applies to all area authority board members regardless of the procedure used to~~  
16 ~~appoint members under subsection (a) of this section.~~

17 (e) Upon request, the board shall provide information pertaining to the membership of  
18 the board that is a public record under Chapter 132 of the General Statutes."

19 **SECTION 3.(b)** All area boards shall meet the requirements of G.S. 122C-118.1,  
20 as amended by subsection (a) of this section, no later than July 1, 2013.

21 **SECTION 4.(a)** G.S. 122C-119.1 reads as rewritten:

22 "**§ 122C-119.1. Area Authority board members' training.**

23 All members of the governing body for an area authority shall receive initial orientation on  
24 board members' responsibilities and annual training provided by the Department ~~in which shall~~  
25 include fiscal management, budget development, and fiscal accountability. A member's refusal  
26 to be trained shall be grounds for removal from the board."

27 **SECTION 4.(b)** The North Carolina Department of Health and Human Services, in  
28 cooperation with the School of Government and the local management entities, shall develop a  
29 standardized core curriculum for the training described in subsection (a) of this section.

30 **SECTION 5.** G.S. 122C-170(b) reads as rewritten:

31 "Part 4A. Consumer and Family Advisory Committees.

32 "**§ 122C-170. Local Consumer and Family Advisory Committees.**

33 ...  
34 (b) Each of the disability groups shall be equally represented on the CFAC, and the  
35 CFAC shall reflect as closely as possible the racial and ethnic composition of the catchment  
36 area. The terms of members shall be three years, and no member may serve more than ~~two~~three  
37 consecutive terms. The CFAC shall be composed exclusively of:

38 (1) Adult consumers of mental health, developmental disabilities, and substance  
39 abuse services.

40 (2) Family members of consumers of mental health, developmental disabilities,  
41 and substance abuse services.

42 ...."  
43 **SECTION 6.** Area authorities may add one or more additional counties to their  
44 existing catchment area by agreement of a majority of the existing member counties.

45 **SECTION 7.(a)** Beginning July 1, 2012, and for a period of two years thereafter,  
46 the Department of Health and Human Services shall not approve any county's request to  
47 withdraw from a multicounty area authority operating under the 1915(b)/(c) Medicaid Waiver.  
48 Not later than January 1, 2014, the Secretary shall adopt rules to establish a process for county  
49 disengagement that shall at a minimum ensure the following:

50 (1) Provisions of service are not disrupted by the disengagement.

- 1 (2) The disengaging county is either in compliance or plans to merge with an  
2 area authority that is in compliance with population requirements provided  
3 in G.S. 122C-155(a).  
4 (3) The timing of the disengagement is accounted for and does not conflict with  
5 setting capitation rates.  
6 (4) Adequate notice is provided to the affected counties, the Department of  
7 Health and Human Services, and the General Assembly.  
8 (5) Provisions for distribution of any real property no longer within the  
9 catchment area of the area authority.

10 **SECTION 7.(b)** G.S. 122C-112.1 is amended by adding a new subdivision to read:  
11 "(38) Adopt rules establishing a procedure for single-county disengagement from  
12 an area authority operating under a 1915(b)/(c) Medicaid Waiver."

13 **SECTION 8.** G.S. 122C-147(c) reads as rewritten:

14 **"§ 122C-147. Financing and title of area authority property.**

15 ...  
16 (c) All real property purchased for use by the area authority shall be provided by local  
17 or federal funds unless otherwise allowed under subsection (b) of this section or by specific  
18 capital funds appropriated by the General Assembly. The title to this real property and the  
19 authority to acquire it is held by the ~~county where the property is located. The authority to hold~~  
20 ~~title to real property and the authority to acquire it, including the area authority's authority to~~  
21 ~~finance its acquisition by an installment contract under G.S. 160A-20, may be held by the area~~  
22 ~~authority or by the contracting governmental entity with the approval of the board or boards of~~  
23 ~~commissioners of all the counties that comprise the area authority. The approval of a board of~~  
24 ~~county commissioners shall be by resolution of the board and may have any necessary or~~  
25 ~~proper conditions, including provisions for distribution of the proceeds in the event of~~  
26 ~~disposition of the property by the area authority.~~ area authority. Real property may not be  
27 acquired by means of an installment contract under G.S. 160A-20 unless the Local Government  
28 Commission has approved the acquisition. No deficiency judgment may be rendered against  
29 any unit of local government in any action for breach of a contractual obligation authorized by  
30 this subsection, and the taxing power of a unit of local government is not and may not be  
31 pledged directly or indirectly to secure any moneys due under a contract authorized by this  
32 subsection.

33 ...."

34 **SECTION 9.(a)** G.S. 122C-117 reads as rewritten:

35 **"§ 122C-117. Powers and duties of the area authority.**

36 (a) The area authority shall do all of the following:

37 ...  
38 (7) ~~Appoint an area director in accordance with G.S. 122C-121(d). The~~  
39 ~~appointment is subject to the approval of the board of county commissioners~~  
40 ~~except that one or more boards of county commissioners may waive its~~  
41 ~~authority to approve the appointment. The appointment shall be based on a~~  
42 ~~selection by a search committee of the area authority board. The search~~  
43 ~~committee shall include consumer board members, a county manager, and~~  
44 ~~one or more county commissioners. The Secretary shall have the option to~~  
45 ~~appoint one member to the search committee.~~

46 ...  
47 (17) Have the authority to borrow money with the approval of the Local  
48 Government Commission.

49 ...  
50 (c) Within 30 days of the end of each quarter of the fiscal year, the area director and  
51 finance officer of the area authority shall provide the quarterly report of the area authority to



1 the county finance officer. The county finance officer shall provide the quarterly report to the  
2 board of county commissioners at the next regularly scheduled meeting of the board. The clerk  
3 of the board of commissioners shall notify the area director and the county finance officer if the  
4 quarterly report required by this subsection has not been submitted within the required period  
5 of time. This information shall be ~~presented in a format prescribed by the county. At least twice~~  
6 ~~a year, this information shall be presented in person and shall be read into the minutes of the~~  
7 ~~meeting at which it is presented. In addition, the area director or finance officer of the area~~  
8 ~~authority shall provide to the board of county commissioners ad hoc reports as requested by the~~  
9 ~~board of county commissioners delivered to the county and, at the request of the board of~~  
10 ~~county commissioners, may be presented in person by the area director or the director's~~  
11 ~~designee.~~

12 ...."

13 SECTION 9.(b) G.S. 122C-115.2 is amended by adding a new subsection to read:

14 "(e) The Secretary may waive any requirements of this section that are inconsistent with  
15 or incompatible with contracts entered into between the Department and the area authority for  
16 the management responsibilities for the delivery of services for individuals with mental illness,  
17 intellectual or other developmental disabilities, and substance abuse disorders under a  
18 1915(b)/(c) Medicaid Waiver."

19 SECTION 10. Part 2 of Article 4 of Chapter 122C of the General Statutes is  
20 amended by adding a new section to read:

21 "§ 122C-126.1. Confidentiality of competitive health care information.

22 (a) For the purposes of this section, competitive health care information means  
23 information relating to competitive health care activities by or on behalf of the area authority.  
24 Competitive health care information shall be confidential and not a public record under Chapter  
25 132 of the General Statutes; provided that any contract entered into by or on behalf of an area  
26 authority shall be a public record, unless otherwise exempted by law, or the contract contains  
27 competitive health care information, the determination of which shall be as provided in  
28 subsection (b) of this section.

29 (b) If an area authority is requested to disclose any contract that the area authority  
30 believes in good faith contains or constitutes competitive health care information, the area  
31 authority may either redact the portions of the contract believed to constitute competitive health  
32 care information prior to disclosure or, if the entire contract constitutes competitive health care  
33 information, refuse disclosure of the contract. The person requesting disclosure of the contract  
34 may institute an action pursuant to G.S. 132-9 to compel disclosure of the contract or any  
35 redacted portion thereof. In any action brought under this subsection, the issue for decision by  
36 the court shall be whether the contract, or portions of the contract withheld, constitutes  
37 competitive health care information, and in making its determination, the court shall be guided  
38 by the procedures and standards applicable to protective orders requested under Rule 26(c)(7)  
39 of the Rules of Civil Procedure. Before rendering a decision, the court shall review the contract  
40 in camera and hear arguments from the parties. If the court finds that the contract constitutes or  
41 contains competitive health care information, the court may either deny disclosure or may make  
42 such other appropriate orders as are permitted under Rule 26(c) of the Rules of Civil Procedure.

43 (c) Nothing in this section shall be deemed to prevent the Attorney General, the State  
44 Auditor, or an elected public body, in closed session, which has responsibility for the area  
45 authority, from having access to this confidential information. The disclosure to any public  
46 entity does not affect the confidentiality of the information. Members of the public entity shall  
47 have a duty not to further disclose the confidential information."

48 SECTION 11.(a) G.S. 126-5(a) reads as rewritten:

49 "§ 126-5. Employees subject to Chapter; exemptions.

50 (a) The provisions of this Chapter shall apply to:

51 (1) All State employees not herein exempt; and

- 1 (2) All employees of the following local entities:  
2 a. Area mental health, developmental disabilities, and substance abuse  
3 ~~authorities~~authorities, except as otherwise provided in Chapter 122C  
4 of the General Statutes.  
5 b. Local social services departments.  
6 c. County health departments and district health departments.  
7 d. Local emergency management agencies that receive federal  
8 grant-in-aid funds.

9 An employee of a consolidated county human services agency created  
10 pursuant to G.S. 153A-77(b) is not considered an employee of an entity  
11 listed in this subdivision.

- 12 (3) County employees not included under subdivision (2) of this subsection as  
13 the several boards of county commissioners may from time to time  
14 determine."

15 **SECTION 11.(b)** G.S. 122C-154 reads as rewritten:

16 **"§ 122C-154. Personnel.**

17 Employees under the direct supervision of the area director are employees of the area  
18 authority. For the purpose of personnel administration, Chapter 126 of the General Statutes  
19 applies unless otherwise provided in this Article. Employees appointed by the county program  
20 director are employees of the county. In a multicounty program, employment of county  
21 program staff shall be as agreed upon in the interlocal agreement adopted pursuant to  
22 G.S. 122C-115.1. Notwithstanding G.S. 126-9(b), an employee of an area authority may be  
23 paid a salary that is in excess of the salary ranges established by the State Personnel  
24 Commission. Any salary that is higher than the maximum of the applicable salary range shall  
25 be supported by documentation of comparable salaries in comparable operations within the  
26 region and shall also include the specific amount the board proposes to pay the employee. The  
27 area board shall not authorize any salary adjustment that is above the normal allowable salary  
28 range without obtaining prior approval from the Director of the Office of State Personnel."

29 **SECTION 11.(c)** G.S. 122C-121(a) reads as rewritten:

30 "(a) The area board shall establish the area director's salary under Article 3 of Chapter  
31 126 of the General Statutes. ~~An area board may request an adjustment to the salary ranges~~  
32 ~~under G.S. 126-9(b). The request shall include specific information supporting the need for the~~  
33 ~~adjustment, including comparative salary and patient caseload data for other LMEs, and shall~~  
34 ~~also include the specific amount the area board proposes to pay the director. The area board~~  
35 ~~shall not request a salary adjustment that is more than ten percent (10%) above the normal~~  
36 ~~allowable salary range as determined by the State Personnel Commission.~~Notwithstanding  
37 G.S. 126-9(b), an area director may be paid a salary that is in excess of the salary ranges  
38 established by the State Personnel Commission. Any salary that is higher than the maximum of  
39 the applicable salary range shall be supported by documentation of comparable salaries in  
40 comparable operations within the region and shall also include the specific amount the board  
41 proposes to pay the director. The area board shall not authorize any salary adjustment that is  
42 above the normal allowable salary range without obtaining prior approval from the Director of  
43 the Office of State Personnel."

44 **SECTION 12.(a)** G.S. 122C-122 is repealed.

45 **SECTION 12.(b)** G.S. 35A-1202(4) reads as rewritten:

46 **"§ 35A-1202. Definitions.**

47 When used in the Subchapter, unless a contrary intent is indicated or the context requires  
48 otherwise:

- 49 . . .  
50 (4) "Disinterested public agent" ~~means~~means

- 1           a.     ~~The~~the director or assistant directors of a local human services  
2           agency, or county department of social services.  
3           b.     ~~An adult officer, agent, or employee of a State human services~~  
4           ~~agency. The~~Except as provided in G.S. 35A-1213(f), the fact that a  
5           disinterested public agent is employed by a State or local human  
6           services agency that provides financial assistance, services, or  
7           treatment to a ward does not disqualify that person from being  
8           appointed as guardian.

9           ...."

10          SECTION 12.(c) G.S. 35A-1213 reads as rewritten:

11        "**§ 35A-1213. Qualifications of guardians.**

12          (a)     The clerk may appoint as guardian an adult individual, a corporation, or a  
13          disinterested public agent. The applicant may submit to the clerk the name or names of  
14          potential guardians, and the clerk may consider the recommendations of the next of kin or other  
15          persons.

16          (b)     A nonresident of the State of North Carolina, to be appointed as general guardian,  
17          guardian of the person, or guardian of the estate of a North Carolina resident, must indicate in  
18          writing his willingness to submit to the jurisdiction of the North Carolina courts in matters  
19          relating to the guardianship and must appoint a resident agent to accept service of process for  
20          the guardian in all actions or proceedings with respect to the guardianship. Such appointment  
21          must be approved by and filed with the clerk, and any agent so appointed must notify the clerk  
22          of any change in the agent's address or legal residence. The clerk shall require a nonresident  
23          guardian of the estate or a nonresident general guardian to post a bond or other security for the  
24          faithful performance of the guardian's duties. The clerk may require a nonresident guardian of  
25          the person to post a bond or other security for the faithful performance of the guardian's duties.

26          (c)     A corporation may be appointed as guardian only if it is authorized by its charter to  
27          serve as a guardian or in similar fiduciary capacities. A corporation shall meet the requirements  
28          outlined in Chapters 55 and 55D of the General Statutes. A corporation will provide a written  
29          copy of its charter to the clerk of superior court. A corporation contracting with a public agency  
30          to serve as guardian is required to attend guardianship training and provide verification of  
31          attendance to the contracting agency.

32          (d)     A disinterested public agent who is appointed by the clerk to serve as guardian is  
33          authorized and required to do so; provided, if at the time of the appointment or any time  
34          subsequent thereto the disinterested public agent believes that his role or the role of his agency  
35          in relation to the ward is such that his service as guardian would constitute a conflict of interest,  
36          or if he knows of any other reason that his service as guardian may not be in the ward's best  
37          interest, he shall bring such matter to the attention of the clerk and seek the appointment of a  
38          different guardian. A disinterested public agent who is appointed as guardian shall serve in that  
39          capacity by virtue of his office or employment, which shall be identified in the clerk's order and  
40          in the letters of appointment. When the disinterested public agent's office or employment  
41          terminates, his successor in office or employment, or his immediate supervisor if there is no  
42          successor, shall succeed him as guardian without further proceedings unless the clerk orders  
43          otherwise.

44          (e)     Notwithstanding any other provision of this section, an employee of a treatment  
45          facility, as defined in G.S. 35A-1101(16), may not serve as guardian for a ward who is an  
46          inpatient in or resident of the facility in which the employee works; provided, this subsection  
47          shall not apply to or affect the validity of any appointment of a guardian that occurred before  
48          October 1, 1987.

49          (f)     An individual employed by an entity that contracts with a local management entity  
50          (LME) for the delivery of mental health, developmental disabilities, and substance abuse

1 services may not serve as a guardian for a ward for whom the individual is providing such  
2 services."

3 **SECTION 12.(d)** G.S. 35A-1292(a) reads as rewritten:

4 "**§ 35A-1292. Resignation.**

5 (a) Any guardian who wishes to resign ~~may apply in writing to the clerk, shall file a~~  
6 motion with the clerk setting forth the circumstances of the case. If a general guardian or  
7 guardian of the estate, at the time of making the application, also exhibits his final account for  
8 settlement, and if the clerk is satisfied that the guardian has fully accounted, the clerk may  
9 accept the resignation of the guardian and discharge him and appoint a successor ~~guardian, but~~  
10 ~~the guardian.~~ The guardian so discharged and his sureties are still liable in relation to all matters  
11 connected with the guardianship before the ~~discharge-discharge~~ and shall continue to ensure  
12 that the ward's needs are met until the clerk officially appoints a successor. The guardian shall  
13 attend the hearing to modify the guardianship, if physically able."

14 **SECTION 12.(e)** In order to achieve continuity of care and services, any successor  
15 guardian shall make diligent efforts to continue existing contracts entered into under the  
16 authority of G.S. 122C-122 where consistent with the best interest of the ward, as required by  
17 Chapter 35A of the General Statutes.

18 **SECTION 13.(a)** Section 1(a)(3) of S.L. 2011-264 reads as rewritten:

19 "(3) ~~Designate a single entity an area authority for mental health, developmental~~  
20 disabilities, and substance abuse services to assume responsibility for all  
21 aspects of Waiver management. The following operational models are  
22 ~~acceptable options for Local Management Entity (LME)~~  
23 ~~applicants:acceptable:~~

- 24 a. Merger model: A single larger LME is formed from the merger of  
25 two or more LMEs.  
26 b. Interlocal agreement among LMEs: A single LME is identified as the  
27 leader for all Waiver operations, financial management, and  
28 accountability for performance measures."

29 **SECTION 13.(b)** Section 1(c) of S.L. 2011-264 reads as rewritten:

30 "**SECTION 1.(c)** The Department shall require LMEs that have not been approved by the  
31 Department to operate a 1915(b)/(c) Medicaid Waiver by January 1, 2013, to merge with or be  
32 aligned through an interlocal agreement with an LME that has been approved by the  
33 Department to operate a 1915(b)/(c) Medicaid Waiver. If any LME fails to comply with this  
34 requirement, or fails to meet performance requirements of an approved contract with the  
35 Department to operate a 1915(b)/(c) Medicaid Waiver, the Department shall assign  
36 responsibility for management of the 1915(b)/(c) Medicaid Waiver on behalf of the  
37 noncompliant LME to an LME that is successfully operating the Waiver and successfully  
38 meeting performance requirements of the contract with the Department. Those LMEs approved  
39 to operate the 1915(b)/(c) Medicaid Waiver under an interlocal agreement must have a single  
40 LME entity designated as responsible for all aspects of Waiver operations and solely  
41 responsible for meeting contract requirements."

42 **SECTION 14.** G.S. 108A-70.9A(a) reads as rewritten:

43 "**§ 108A-70.9A. Appeals by Medicaid recipients.**

44 (a) Definitions. – The following definitions apply in this Part, unless the context clearly  
45 requires otherwise.

46 (1) Adverse determination. – A determination by the Department to deny,  
47 terminate, suspend, or reduce a Medicaid service or an authorization for a  
48 Medicaid service.

49 (1a) Department. – The North Carolina Department of Health and Human  
50 Services, its legally authorized agents, contractors, or vendors who, acting  
51 within the scope of their authorized activities, assess, authorize, manage,

1 review, audit, monitor, or provide services pursuant to Title XIX or Title  
2 XXI of the Social Security Act, the North Carolina State Plan of Medical  
3 Assistance, the North Carolina State Plan of Health Insurance Program for  
4 Children, or any waivers of the federal Medicaid Act granted by the United  
5 States Department of Health and Human Services.

6 (2) OAH. – The Office of Administrative Hearings.

7 (3) Recipient. – A recipient and the recipient's parent, guardian, or legal  
8 representative, unless otherwise specified."

9 **SECTION 15.** This act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 1075\*

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

H1075-ASQ-144 [v.4]

Page 1 of 3

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

Date \_\_\_\_\_, 2012

Senator Hartsell

1 moves to amend the PCS on page 9, line 42, through page 10, line 8, by rewriting the lines to  
2 read:

3 "SECTION 14. G.S. 108A-70.9A reads as rewritten::

4 'Part 6A. Medicaid Recipient Appeals Process.

5 **§ 108A-70.9A. Appeals by Medicaid recipients.**

6 (a) Definitions. – The following definitions apply in this Part, unless the context clearly  
7 requires otherwise.

8 (1) Adverse determination. – A determination by the Department to deny,  
9 terminate, suspend, or reduce a Medicaid service or an authorization for a  
10 Medicaid service.

11 (1a) Department . – The North Carolina Department of Health and Human  
12 Services and shall include any entity operating a Prepaid Inpatient Health  
13 Plan (PIHP) or other Managed Care Organization (MCO), as those terms are  
14 defined in 42 C.F.R. Part 438, pursuant to an agreement or contract with the  
15 Department. Such PIHP or MCO shall participate in mediation as set forth in  
16 G.S. 108A-70.9B(c) and shall be solely responsible for defending its  
17 decisions at OAH. Notwithstanding any provision of State law or rules to the  
18 contrary, this section shall govern the appeals of enrollees arising from any  
19 Local Management Entity's (LME's), as defined by G.S. 122C-3(20b),  
20 adverse determination where the LME operates a PIHP or MCO pursuant to  
21 an agreement or contract with the Department.

22 (2) OAH. – The Office of Administrative Hearings.

23 (3) Recipient. – A recipient and the recipient's parent, guardian, or legal  
24 representative, unless otherwise specified.

25 (b) General Rule. – Notwithstanding any provision of State law or rules to the contrary,  
26 this section shall govern the process used by a Medicaid recipient to appeal an adverse  
27 determination made by the Department. Any enrollee grievance and appeal process created by a  
28 PIHP or MCO pursuant to 42 CFR Part 438, Subpart F shall supplement appeal rights provided  
29 to recipients pursuant to this section. The process described in G.S. 122C-151.3 and 151.4 shall  
30 not apply to Medicaid recipients contesting an adverse determination of an LME operating a  
31 PIHP or MCO.



\* H 1 0 7 5 - A S Q - 1 4 4 - V - 4 \*

**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
House Bill 1075\*

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

H1075-ASQ-144 [v.4]

Page 2 of 3

1       (c) Notice. – Except as otherwise provided by federal law or regulation, at least 10 days  
2 before the effective date of an adverse determination, the Department shall notify the recipient,  
3 and the provider, if applicable, in writing of the adverse determination and of the recipient's  
4 right to appeal the adverse determination. The Department shall not be required to notify a  
5 recipient's parent, guardian, or legal representative unless the recipient's parent, guardian, or  
6 legal representative has requested in writing to receive the notice. The notice shall be mailed on  
7 the date indicated on the notice as the date of the determination. The notice shall include:

- 8           (1) An identification of the recipient whose services are being affected by the  
9 adverse determination, including the recipient's full name and Medicaid  
10 identification number.
- 11           (2) An explanation of what service is being denied, terminated, suspended, or  
12 reduced and the reason for the determination.
- 13           (3) The specific regulation, statute, or medical policy that supports or requires  
14 the adverse determination.
- 15           (4) The effective date of the adverse determination.
- 16           (5) An explanation of the recipient's right to appeal the Department's adverse  
17 determination in an evidentiary hearing before an administrative law judge.
- 18           (6) An explanation of how the recipient can request a hearing and a statement  
19 that the recipient may represent himself or herself or use legal counsel, a  
20 relative, or other spokesperson.
- 21           (7) AIn accordance with the provisions of 42 CFR 431.230 or 42 CFR 438.420,  
22 a statement that the recipient will continue to receive Medicaid services at  
23 the level provided on the day immediately preceding the Department's  
24 adverse determination or the amount requested by the recipient, whichever is  
25 less, if the recipient requests a hearing before the effective date of the  
26 adverse determination. The services shall continue until the hearing is  
27 completed and a final decision is rendered.
- 28           (8) The name and telephone number of a contact person at the Department to  
29 respond in a timely fashion to the recipient's questions.
- 30           (9) The telephone number by which the recipient may contact a Legal Aid/Legal  
31 Services office.
- 32           (10) The appeal request form described in subsection (e) of this section that the  
33 recipient may use to request a hearing.

34       (d) Appeals. – Except as provided by this section and G.S. 108A-70.9B, a request for a  
35 hearing to appeal an adverse determination of the Department under this section is a contested  
36 case subject to the provisions of Article 3 of Chapter 150B of the General Statutes. The  
37 recipient shall request a hearing within 30 days of the mailing of the notice required by  
38 subsection (c) of this section by sending an appeal request form to ~~OAH and the~~  
39 ~~Department.~~OAH. Where a request for hearing concerns the reduction, modification, or  
40 termination of Medicaid services, including the failure to act upon a timely request for  
41 reauthorization with reasonable promptness, upon the receipt of a timely appeal, the  
42 Department shall reinstate the services to the level or manner prior to action by the Department  
43 as permitted by federal law or regulation. The Department shall immediately forward a copy of

**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
**House Bill 1075\***

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

H1075-ASQ-144 [v.4]

Page 3 of 3

1 the notice to OAH electronically. The information contained in the notice is confidential unless  
2 the recipient appeals. OAH may dispose of the records after one year. The Department may not  
3 influence, limit, or interfere with the recipient's decision to request a hearing.

4 (e) Appeal Request Form. – Along with the notice required by subsection (c) of this  
5 section, the Department shall also provide the recipient with an appeal request form which shall  
6 be no more than one side of one page. The form shall include the following:

7 (1) A statement that in order to request an appeal, the recipient must send the  
8 form by mail or fax to the address or fax number listed on the form within 30  
9 days of mailing of the notice.

10 (2) The recipient's name, address, telephone number, and Medicaid  
11 identification number.

12 (3) A preprinted statement that indicates that the recipient would like to appeal  
13 the specific adverse determination of which the recipient was notified in the  
14 notice.

15 (4) A statement informing the recipient that he or she may choose to be  
16 represented by a lawyer, a relative, a friend, or other spokesperson.

17 (5) A space for the recipient's signature and date.

18 (f) Final Decision. – After a hearing before an administrative law judge, the judge shall  
19 return the decision to the Department in accordance with G.S. 150B-37. The Department shall  
20 notify the recipient of the final decision and of the right to judicial review of the decision  
21 pursuant to Article 4 of Chapter 150B of the General Statutes."".  
22  
23

SIGNED \_\_\_\_\_

  
Amendment Sponsor

SIGNED \_\_\_\_\_

Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_



**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

**CORRECTED COPY #2**

Thursday, June 21, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE, AS AMENDED**

H.B.(CS #1)	<b>964</b>	North Carolina Longitudinal Data System.
		Sequential Referral:           None
		Recommended Referral:       None
		Long Title Amended:          No

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

H.B.	<b>1096</b>	Simplify School Beverage Contract Bids.
		Draft Number:                 30628
		Sequential Referral:          None
		Recommended Referral:       None
		Long Title Amended:          Yes

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. #1, BUT  
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. #2**

H.B.(SCS #1)	<b>1075</b>	LME/MCO Governance.
		Draft Number:                 80404
		Sequential Referral:          None
		Recommended Referral:       None
		Long Title Amended:          No

**TOTAL REPORTED: 3**

Committee Clerk Comments:

N C GENERAL ASSEMBLY

VISITOR SIGN-IN

SENATE RULES COMMITTEE 6-21-2012

ROOM 1027

Name

Representing

Name	Representing
CHUCK ALLEN	US AIRWAYS
JOEL ANIER	NELSON MULLINS
DOUG LASSIG	NC STA
<del>Greg Wardley</del>	NCPE/ NCCA
<del>Paul Brown</del>	Bone Assn
<del>Donnell</del>	<del>NAIC</del>
Julia Adams	THE ARC OF NC
Chris Mackey	Gov's Office
Paul Sherman	NCPA
PEYTON MAYNARD	<del>X</del>
Steve JORDAN	OMH/OSA S
Bob Melcher	PHHS
<del>Sh...</del>	<del>PHHS</del>
Parish S. Co	R. Child & Assoc
Amy Whitford	NCMS
Daniel Auburn	NCRMA
KARL POWN	NCDPI
Carl Dean	OSP
Robert Wilson	SOS
<del>...</del>	<del>...</del>
Steve Metcalf	NCCNA
SUSANNA DAVIS	Gov Office
Betsy Allen	AAA
Devin Scott	MWC
Bill Phillips	TWC
Sunny Robinson	TWC
PAIGE WORTHAM	LEGISLATIVE REPORTING SERVICE
Allen Hardison	CRSWMA
Mike Watson	NCRPA
Colleen Kochanek	Kochanek Law Group
Wendy Kelly	Providers Council



N C GENERAL ASSEMBLY

VISITOR SIGN-IN

SENATE RULES COMMITTEE 6-21-2012

ROOM 1027

Name

Representing

LESLIE CAPES	LANC
DAVID REE	MFS
Zimmerman	Misc
Kristen Howard	MCIC
John McCain	Public Group
John MERRITT	MWCLL
Gum McCall	SBE
Amanda Dixon	Sen: Hise's office
Anne Murtha	NC DCR
Elise Quick	Trouthac salaries
Christie Barrell	CDNA
Ellis Powell	CAPA
BOBBY LEWIS	NC DOT
CHUCK STONE	SERAC
CLARE FITZGERALD	DENR
Dunwood Lovelink	NS
Jo Ann Kershner	CSS
Rick Zechini	Progress Energy
John Palicatos	NCADA
Sarah Kance	NCDCU
Will Durre	UCICU
Gene Carlsby	NCSNA
Butch Gunnells	NC Bell
SUSAN VALDWIN	NATIONAL
Crystal Collins	NC Trucking Assoc
Denise Foreman	Wake County
Penn Brayhill	WCSR
J PETERS	CSS
Art Smith	United Generation
ZER ALLEY	NMRS

N C GENERAL ASSEMBLY

VISITOR SIGN-IN

SENATE RULES COMMITTEE 6-21-2012

ROOM 1027

Name

Representing

John Tucker  
Melante Sen  
~~John Tucker~~

Moore & Van Allen  
JCL  
can

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 26, 2012

The Committee on Rules and Operations of the Senate met on Tuesday, June 26, 2012 at 9:00 a.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present.

Senator Apodaca presided.

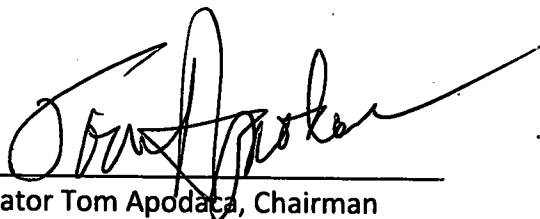
Senator Apodaca introduced the pages and sergeant-at-arms assisting with the committee.

Senator Apodaca announced that Kevin McLaughlin, Vicki Stanley, and Susan Coward would appear before the committee tomorrow to explain their role in the letters that were distributed under Mr. Trogon's signature.

**HOUSE BILL – 585 – ALCOHOL SALES/VEHICLE EMISSIONS INSPECTIONS** – Senator Newton moved to adopt the Proposed Committee Substitute. Motion carried. Senator Bingham explained the bill. Senator Brown sent forth an amendment and moved for the adoption. Motion carried.

Senator said someone from ALE would come before the committee tomorrow to answer questions and speak to the bill.

The meeting adjourned at 9:30 a.m.



\_\_\_\_\_  
Senator Tom Apodaca, Chairman



\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant

Statement of Senator Apodaca

June 26, 2012

Senate Rules Committee

- Members of the Committee, we have now heard from both the Department and the Governor's Office regarding the inaccurate letters that were distributed under Jim Trogdon's signature without his consent.
- It is apparent to me that one of two things happened: at best, at least one high-ranking official in the Governor's Office woefully misstated the position of a respected Deputy Secretary at the Department of Transportation. That misstatement pertained to a highly-charged political issue that many people at all levels of government may be interested in.
- At worst, employees of the State of North Carolina may have been forced to contradict their supervisor on a significant policy position while that supervisor was out of contact. Furthermore, the well-respected supervisor's name was attached to the contradiction without his consent or approval. These facts, if true, warrant further investigation by appropriate authorities.
- Either scenario troubles me greatly. I am forced to conclude that we must hear directly from the three people who can tell us who signed the letters, who asked them to sign the letters, and whether they were forced or coerced into doing so.
- Accordingly, I will invite Kevin McLaughlin, Vicki Stanley and Susan Coward to appear individually tomorrow before this Committee to shed some more light on this matter.
- We will conclude this inquiry on Thursday of this week. All options remain on the table.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 585  
Committee Substitute Favorable 5/12/11  
Senate Commerce Committee Substitute Adopted 6/14/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H585-PCS70314-ME-42

Short Title: Alcohol Sales / Vehicle Emissions Inspections.

(Public)

Sponsors:

Referred to:

April 5, 2011

A BILL TO BE ENTITLED

AN ACT (1) TO MODIFY PROVISIONS RELATED TO THE SALES OF ALCOHOLIC BEVERAGES AND (2) TO EXEMPT VEHICLES OF THE THREE NEWEST MODEL YEARS AND WITH LESS THAN EIGHTY THOUSAND MILES FROM EMISSIONS INSPECTIONS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 18B-101(7b) reads as rewritten:

"(7b) "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-district~~; is a contributing structure in a National Register Historic District; or is under protective covenants or a historic preservation agreement administered by the Historic Preservation Foundation of North Carolina, Inc.
- 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."

SECTION 1.(b) G.S. 18B-900(a) is amended by adding a new subdivision to read as follows:

"(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person shall:

- ...
- (8) Have a valid social security number or be able to produce valid documentation issued to the applicant under the authority of the United States government demonstrating legal presence in the United States."

SECTION 1.(c) G.S. 18B-1002(d) reads as rewritten:



\* H 5 8 5 - P C S 7 0 3 1 4 - M E - 4 2 \*



1       "(d) Administrative Procedure. – A permit issued pursuant to this section shall not be  
2 issued less than 10 days before any qualifying event described in subdivisions (1) through (5)  
3 of subsection (a) of this section. The Commission shall notify the ALE Section not more than  
4 three business days after the date a permit is issued pursuant to this section of the name and  
5 address of the applicant, the address of the event, and any conditions placed on the permit  
6 pursuant to subsection (c) of this section. Denial or revocation of a permit under this section  
7 shall not entitle the applicant or permittee to a hearing under Chapter 150B."

8           **SECTION 2.(a)** G.S. 20-183.2(b)(3) reads as rewritten:

9       "(b) Emissions. – A motor vehicle is subject to an emissions inspection in accordance  
10 with this Part if it meets all of the following requirements:

11           ...  
12           (3) It is (i) a 1996 or later ~~model~~ model and older than the three most recent  
13           model years or (ii) a 1996 or later model and has 80,000 miles or more on its  
14           odometer."

15           **SECTION 2.(b)** The Department of Environment and Natural Resources shall  
16 submit for approval the emissions inspection program changes provided in subsection (a) of  
17 this section to the United States Environmental Protection Agency as an amendment to the  
18 North Carolina State Implementation Plan under the federal Clean Air Act. If the United States  
19 Environmental Protection Agency approves the amendment, the Secretary of the Department of  
20 Environment and Natural Resources shall certify this approval to the Revisor of Statutes. In the  
21 certification, the Secretary of the Department of Environment and Natural Resources shall  
22 include the session law number of this act.

23           **SECTION 2.(c)** After the Motor Vehicle Inspection and Law Enforcement System  
24 (MILES) is retired and the replacement system for MILES is operational, the Commissioner of  
25 Motor Vehicles shall certify to the Revisor of Statutes that MILES has been replaced. In the  
26 certification, the Commissioner of Motor Vehicles shall include the session law number of this  
27 act.

28           **SECTION 2.(d)** Subsection (a) of this section becomes effective on the later of the  
29 following dates and applies to motor vehicles inspected, or due to be inspected, on or after the  
30 effective date of subsection (a) of this section:

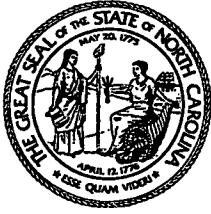
31           (1) January 1, 2014.

32           (2) The first day of a month that is 30 days after both of the following have  
33 occurred:

34           a. The Department of Environment and Natural Resources certifies to  
35 the Revisor of Statutes that the United States Environmental  
36 Protection Agency has approved the amendment to the North  
37 Carolina State Implementation Plan based on the change to the  
38 emissions inspection program provided in subsection (a) of this  
39 section.

40           b. The Commissioner of Motor Vehicles certifies to the Revisor of  
41 Statutes that the Motor Vehicle Inspection and Law Enforcement  
42 System (MILES) has been replaced.

43           **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
44 law.



# HOUSE BILL 585: Alcohol Sales/Vehicle Emissions Inspections

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 25, 2012
<b>Introduced by:</b>	Reps. Pridgen, Hastings, Jones	<b>Prepared by:</b>	Giles S. Perry
<b>Analysis of:</b>	PCS to Third Edition H585-CSME-42		Committee Counsel

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**SUMMARY:** *House Bill 585 (proposed committee substitute) makes changes to the alcoholic beverage laws of the State, and exempts certain vehicles from emissions inspection requirements.*

## **BILL ANALYSIS:**

Section 1 of the bill makes three changes to the alcoholic beverage laws of the State:

- Section 1(a) amends the definition of an "Historic ABC establishment".
- Section 1(b) adds a requirement of a valid social security number or proof of legal presence in order to have an ABC permit.
- Section 1(c) makes changes to the administrative procedures applicable to issuance of a special one-time permit.

Section 2 of the bill makes changes concerning emissions inspections.

- Section 2(a) exempts motor vehicles in their first three model years, with less than 80,000 miles, from the requirement of an emissions inspections.
- Section 2(b) requires NC DENR to submit this change to the US EPA for approval.
- Section 2(c) requires the Commissioner of Motor Vehicles to certify the date the Motor Vehicle Inspection and Law Enforcement System (MILES) is retired, and its replacement is operational.
- Section 2(d) provides the Section 2(a) is effective the later of: January 1, 2014; or 30 days after DENR gets approval from EPA to the emissions inspection changes, and MILES has been replaced.

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

H585-SMRW-241(CSME-42) v1

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. \_\_\_\_\_

H. B. No. 585

DATE \_\_\_\_\_

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

COMMITTEE SUBSTITUTE

(to be filled in by  
Principal Clerk)

Rep. ) Brunn  
Sen. ) \_\_\_\_\_

1 moves to amend the bill on page 2, line 13

2 ( ) WHICH CHANGES THE TITLE

3 by \_\_\_\_\_

4 deleting "80,000" and  
5 substituting "70,000"

6 \_\_\_\_\_

7 \_\_\_\_\_

8 \_\_\_\_\_

9 \_\_\_\_\_

10 \_\_\_\_\_

11 \_\_\_\_\_

12 \_\_\_\_\_

13 \_\_\_\_\_

14 \_\_\_\_\_

15 \_\_\_\_\_

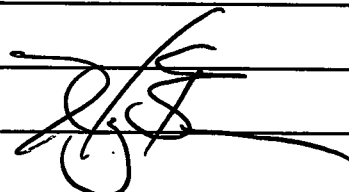
16 \_\_\_\_\_

17 \_\_\_\_\_

18 \_\_\_\_\_

19 \_\_\_\_\_

SIGNED



ADOPTED 

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

# Fiscal Impacts

## Three-year Exemption

- Vehicle owners would save \$16.40 per vehicle per year in years two and three for a total savings of \$32.80 per new vehicle.
- Inspection stations in the 48 Emissions Counties would see a combined loss of revenue equaling \$10,359,418 per year.
- State revenues would be reduced annually as shown in the table.

Account/Agency	Amount/Inspection	Annual Net Loss
Inspection Program Account	\$3.00	\$1,308,558.00
Telecommunications Account	\$1.75	\$763,325.50
Division of Air Quality	\$0.65	\$283,520.80

- Federally Mandated Warranty of 2 years 24,000 miles will have expired and the consumer will assume cost for repair.

## SENATE PAGES ATTENDING

COMMITTEE: Rules ROOM: 1027  
 DATE: 6-26 TIME: 9 AM

**PLEASE PRINT LEGIBLY!!!!!!!!!!!!!! OR ELSE!!**

Page	Name	Hometown	Sponsoring Senator
1	Staci Batts	Rocky Mount	Jenkins
2	<del>Emily Shea</del>	<del>Princeton, NJ</del>	<del>Berger</del>
3	Russell Gross	Greensboro	Vaughan
4	Alayna Pearson	Kings Mountain	Westmoreland
5	Meghan Crider	Raleigh	Garrou
6	Emily Browning	Raleigh	stein
7	Ward Sylvester	Richlands	Brown
8	William Hargett	Greenville	Jenkins
9	Sallie Sylvester	Richlands	Brown
10			

**Do not add names below the grid.**

**Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.**

# VISITOR REGISTRATION SHEET

## Rules and Operations of the Senate

Committee Name

Date

June 26, 2012

**VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Amanda Dixon	Sen. Hise's Office
Melanie Soler	DCR
JE Towell	ADK
Daniel Auburn	NCRMA
TOM BEAN	EDF, NCSEA
Barbara Casler	BBGCR
Rob Luker	VIA
DAVID BARNES	PS
CHRIS DILLON	none
Erica Nelson	NCHA
Matthew Eistey	Smith Anderson
Alex Miller	KLG
W. McJannet	UCCU
Paul Baystts	Police Chiefs
J. J. ...	A. ...

# VISITOR REGISTRATION SHEET


## Rules and Operations of the Senate

Committee Name

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June 26, 2012

**VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK,**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Elise Quick	Troutman Sanders
Daniel Baum	Troutman Sanders
Chris McDermott	AMLI
Susanna Hailey	K&L Gates
Mitch Leonard	SEANC
Clare Fitzgerald	DENR
	DENR
Diana Kees	DENR
Ashleigh Thornton	MWC
Allison Waller	Nelson Mullins
Katherine Joyce	NCAAA
Mike W. [Signature]	NORPA
Rochelle Sparks	NC Justice Center
Karl Quice	Adams Outdoor
Tommy Siler	Moore and Van Allen

# VISITOR REGISTRATION SHEET

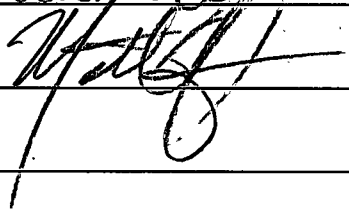
Rules and Operations of the Senate

Committee Name

Date

June 26, 2012

VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Pamela Meyer	NCLM
Ben Schauberg	NCSBA
Camiera Hurling	Electrical City
Amy Whitel	NCEP
JOE LANIER	NELSON MULLINS
McC Baxley	NC Aggregates
BERRY Jenkins	CAROLINAS AGC
Fern Schubert	Raleigh Report
Douglas Hixon	WM
Lisa Martin	NC HBA
Abigail Barrett	WM
	





**Senate Rules and Operations  
Committee  
Wednesday, June 27, 2012, 9:30 AM  
1027**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

**HB 585 Alcohol Sales/ Vehicle Emissions Inspections**

**Bingham**

**HB 1023 Expunction/Nonviolent Offenses**

**Daughtry**

*for report*

**HB 1044 Motorcycle Insurance Discount/Military**

**Shepard**

**HB 1173 Absconding Probation Violators Forfeit Benefits**

**LaRoque**

**SB 847 General Statutes Comm. Tech. Corrections**

**Hartsell**

**HB 494 Continuous Alcohol Monitoring Law Changes**

**Alexander**

**HB 1085 State Health Plan/Statutory Changes-AB**

**Dollar**

**HB 1105 Modify Taxation of HOA Property**

**Justice**

**HB 572 Accountability for Publicly Funded Nonprofits**

**Justice**

**HB 953 Environmental Tech. Correction 2012**

**Gillespie**

**HB 457 Municipal Electric Utilities/Rate Hearings**

**Farmer-Butterfield**

**HB 837 Completion of CPR by Students Required**

**Carney**

**HB 914 AEDs in State Buildings**

**Carney**

**HB 799 Licensure by Endorsement/Military/Spouses**

**Martin**

NORTH CAROLINA GENERAL ASSEMBLY .

COMMITTEE ON RULES AND OPERATIONS OF THE SENATE

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TRANSCRIPT OF THE PROCEEDINGS

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In Raleigh, North Carolina  
Wednesday, June 27, 2012, 9:30 a.m.

Reported by Sarah A. Bowers

Worley Reporting  
P.O. Box 91447  
Raleigh, NC 27675  
919-870-8070

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/27/12 session

2

1                   SENATOR APODACA: Let's come to order.  
2                   Find a seat. Try to bring it down. Thank  
3                   you. Thank you. Let me -- first  
4                   announcement. We will probably start hearing  
5                   bills around 10:15. So if I have got any  
6                   bills' sponsors in here, you have got about,  
7                   say, 45 minutes. You can come back around 10  
8                   or you're welcome to stay with us.

9                   I would like to introduce our pages  
10                  today. Peyson Hunt. Raise your hand when I  
11                  call your name. Okay, welcome. David  
12                  Rosario. Okay. Jared Lowe. Okay. Russell  
13                  Gross. There he is. Brooke Greene. Spencer  
14                  McClung. Okay. Hendricks Stowe. Welcome.  
15                  Elliott Honeycutt. Jared Ballen. And  
16                  Damonique Levy. Welcome. Okay.

17                  This is how we're going to do it today,  
18                  folks. We're going to start and try to get  
19                  through our final three folks on the hearing  
20                  today, and then we'll move to the bills.  
21                  Today, we're going to hear from Vicky Stanley,  
22                  Susan Coward, and Kevin McLaughlin, in that  
23                  order. Each witness may choose to give an  
24                  opening statement. After that, I'm going to  
25                  recognize Senator Newton for a few questions.

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/27/12 session

3

1           So, Vicky, are you here? Please, come  
2 forward. Thank you.

3           MS. STANLEY: Thank you. I do have a  
4 statement I'd like to read. On June 14th,  
5 Pryor Gibson called the department and asked  
6 to speak to my boss, Jim Trogdon. I told Mr.  
7 Gibson that Jim was in Charlotte on National  
8 Guard business, that he could try on his cell,  
9 and that I would also contact him and let him  
10 know that Mr. Gibson was trying to reach him.

11           At 9:43 a.m., I texted Jim and told him  
12 that Mr. Gibson had called to discuss a minor  
13 change to the letter and that he was going to  
14 try Jim's cell. Jim texted me back  
15 immediately that he was in the middle of an  
16 exercise, unavailable, and to ask Mr. Gibson  
17 to work with Deputy Secretary Susan Coward on  
18 the change. I immediately called Mr. Gibson  
19 and left him this message, and I then shared  
20 this information with Susan.

21           At approximately 10:15 -- I'm not sure of  
22 the exact time -- Mr. Gibson came to our  
23 office, spoke briefly with Susan, and handed  
24 her the letters with the noted revisions. She  
25 looked them over, handed them to me, and asked

1 me to make the changes as noted. I told her  
2 it would take a few minutes, because I also  
3 needed to change the opening paragraph in the  
4 letter to address the ferry tolling issue that  
5 had been added, as well.

6 She added -- asked Mr. Gibson to give us  
7 30 minutes and we would bring them to him when  
8 we had finished. However, he returned to the  
9 office in about 15 minutes and said he needed  
10 to have them to the legislature before 11  
11 o'clock. Therefore, I hurriedly finished the  
12 letters and laid them on my desk for Susan to  
13 review and sign.

14 She told Mr. Gibson that she usually  
15 signed her own name and wrote "for" above the  
16 person's name for whom she was signing. Mr.  
17 Gibson stated that he would rather she sign  
18 Jim's name. As she appeared to hesitate  
19 between signing her name or Jim's name, I  
20 asked if she would prefer that I add Jim's  
21 electronic signature. She and Mr. Gibson both  
22 agreed, and Mr. Gibson took the letters and  
23 left.

24 At 11:11 a.m., I e-mailed Jim notifying  
25 him of the revised sentence. At 12:20 p.m.,

1 Jim responded to me, to Beau Memory, our  
2 legislative liaison, and to Susan Coward,  
3 "Major problem with the sentence, not true."

4 Susan had left the office for the day, so  
5 I e-mailed Bobby, our chief of staff, asking  
6 what we should do to correct the letters.  
7 About five to ten minutes later, he was in the  
8 office and had been on the phone with Jim. He  
9 said Jim was on his way back to Raleigh to  
10 address this problem.

11 At 12:39 p.m., Susan Coward e-mailed Jim,  
12 Bobby and myself stating, "I take full  
13 responsibility in trusting the edit as  
14 presented, and I apologize to everyone."

15 Around 4 p.m., Jim returned to the  
16 office, retraction letters were drafted, and  
17 then Beau and Jim left the office. When they  
18 returned, Jim signed the retraction letters,  
19 asked me to scan and e-mail to Senator White  
20 and Representative Current with a copy to Mr.  
21 Pryor Gibson. The e-mails containing the  
22 retraction were sent at approximately 5:30  
23 p.m.

24 I deeply regret my part. I need a few  
25 minutes.

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/27/12 session

6

1                   SENATOR APODACA: Take a moment and  
2                   compose. It's all right.

3                   MS. STANLEY: Sorry. When I get upset,  
4                   tears come. I deeply regret applying Jim's  
5                   signature to these letters, especially since I  
6                   knew he was not aware of the specifics of the  
7                   change. I apologized to Jim and to the  
8                   department. I'm sorry.

9                   SENATOR APODACA: That's okay.

10                  MS. STANLEY: Although, I did feel a  
11                  sense of urgency due to the time deadline and  
12                  a heightened sense of responsiveness. And any  
13                  time the Governor's office is involved, we  
14                  want to be as responsive as we can. I did not  
15                  feel threatened or forced at any time. I take  
16                  full responsibility for the part I played in  
17                  this.

18                  SENATOR APODACA: Thank you, Vicky.  
19                  Senator Newton?

20                  SENATOR NEWTON: Thank you, Mr. Chairman.  
21                  Good morning, Ms. Stanley. And I appreciate  
22                  you very much being here. I know the rest of  
23                  us do. I know this is a -- difficult, and  
24                  it's not something you expected, to be in this  
25                  spotlight, and so I understand that. And I --



1 take your time.

2 I want to ask you some questions. Some  
3 of them may sound a little bit tedious, a  
4 little bit trivial. I just want to make sure  
5 we're clear on some things, and I think you're  
6 in a position to clear some things up for us.  
7 We don't want to speculate.

8 MS. STANLEY: Okay.

9 SENATOR NEWTON: We want to know what  
10 happened because this is really important to  
11 the legislature. I'm not on Transportation.  
12 I don't really know about these projects.  
13 What I'm concerned about is, is that we -- we  
14 make sure that the information the legislature  
15 gets is accurate. And that if there's -- if  
16 there's a problem by mistake, that we avoid  
17 those mistakes. But if there's something  
18 worse that was intent to mislead somewhere, we  
19 want to make sure that doesn't happen, because  
20 we have important business to do, and people  
21 expect us to do it. And that's -- we can't  
22 have that. We have got to figure out how to  
23 solve those problems. So I really appreciate  
24 that. Bear with me. And I'm going to ask you  
25 some general questions.

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/27/12 session

8

1 MS. STANLEY: Certainly.

2 SENATOR NEWTON: Now, your position there  
3 at DOT and who you work with, you're an  
4 administrate- -- please tell me your title.

5 MS. STANLEY: I'm an administrative  
6 officer. I work as Mr. Trogdon's  
7 administrative assistant and as our office  
8 manager.

9 SENATOR NEWTON: Okay. So you work  
10 directly with General Trogdon?

11 MS. STANLEY: I do.

12 SENATOR NEWTON: Okay. Let me draw your  
13 attention to Tuesday morning. Okay. Is  
14 there -- is there an exhibit book up there, Mr.  
15 Chairman? Do you know what I'm talking about?

16 SENATOR APODACA: Yes.

17 SENATOR NEWTON: If I could, would you  
18 please take a look at Exhibit Number 8?

19 SENATOR APODACA: 8?

20 SENATOR NEWTON: Yes, sir.

21 Have you seen that before?

22 MS. STANLEY: I wrote this.

23 SENATOR NEWTON: You wrote that?

24 MS. STANLEY: Uh-huh.

25 SENATOR NEWTON: This -- this -- it says

1 at the top -- and you have it there before  
2 you; right?

3 MS. STANLEY: I do.

4 SENATOR NEWTON: It says, at the top,  
5 that it was delivered on 6/12/12.

6 MS. STANLEY: It was hand-delivered by  
7 Mr. Gibson himself.

8 SENATOR NEWTON: So he brought this to  
9 you on -- on the 12th?

10 MS. STANLEY: He did.

11 SENATOR NEWTON: Okay. Do you know  
12 approximately what time of day on the 12th  
13 that was?

14 MS. STANLEY: I do not.

15 SENATOR NEWTON: Well, let me -- I'm  
16 going to follow up with you if I could. And I  
17 don't mean down to the minute or anything.  
18 Can you tell us, was it morning, midday, late,  
19 do you recall?

20 MS. STANLEY: I really don't. I really  
21 don't. I think it was around midday, but I --  
22 that is -- my memory really fails me there.

23 SENATOR NEWTON: When Mr. Gibson gave  
24 this to you, did y'all have any conversations  
25 about it, or did he just hand it to you and

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/27/12 session

10

1           leave? What can you do to help me clear up  
2           about that?

3                   MS. STANLEY: He just seemed that it  
4           was -- it was an urgent matter, that he needed  
5           to talk with Jim about it as soon as possible,  
6           and that he needed to arrange a time when the  
7           Governor could speak to Jim about this issue.

8                   SENATOR NEWTON: Okay. Now, if you will  
9           look at that exhibit again in the last  
10          sentence, it says -- and I'll read it, and you  
11          correct me if I get it wrong. "The Governor  
12          is traveling, but on her next stop, they want  
13          to connect you with her to discuss attached  
14          issues."

15                   MS. STANLEY: Uh-huh.

16                   SENATOR NEWTON: Can you tell me what the  
17          "attached issues" were? We don't have  
18          anything else on this exhibit.

19                   MS. STANLEY: Those were the two letters  
20          from Senator White and Representative Current  
21          to the Governor's office and a draft that  
22          someone had -- had drafted from the Governor's  
23          office in response to those letters. They  
24          wanted Jim to use that in his -- they were  
25          asking Jim to prepare a draft on behalf of the

**Transcript of the Proceedings**

Committee on Rules and Operations of the Senate, 6/27/12 session

11

1 Governor with Jim's signature responding to  
2 those two letters.

3 SENATOR NEWTON: Okay. The draft  
4 response that was attached --

5 MS. STANLEY: Uh-huh.

6 SENATOR NEWTON: We have the letters, I  
7 believe, from Senator White and the e-mail  
8 from Representative Current; is that correct?

9 MS. STANLEY: That is correct, that is  
10 correct.

11 SENATOR NEWTON: And for the record, that  
12 would be -- if you would confirm with me, that  
13 was the -- this would be Exhibits 9 and 10, if  
14 you would confirm that with me.

15 SENATOR APODACA: 9 and 10.

16 MS. STANLEY: That is correct. That is  
17 correct.

18 SENATOR NEWTON: Thank you, Ms. Stanley.  
19 Would you take a look at Exhibit Number 11?

20 MS. STANLEY: Yes. That's the draft that  
21 I --

22 SENATOR NEWTON: That's the draft?

23 MS. STANLEY: -- that I had been  
24 referring to.

25 SENATOR NEWTON: Thank you. We were not

1           sure about that.

2                     Can you help us with the -- the  
3           handwritten portions of this draft on Exhibit  
4           11 -- and for the record, up at the top, it's  
5           got a -- a bracket or arrow that says, "one  
6           letter or two separate, question mark"?

7                     MS. STANLEY: Correct.

8                     SENATOR NEWTON: And then some other  
9           notes as we go down. Do you know who did  
10          that?

11                    MS. STANLEY: I did that before I gave it  
12          to Jim. Or actually, when he handed it back  
13          to me, I had some questions when he asked me  
14          to prepare a rough draft for him to review  
15          using this as a guideline. I was not sure if  
16          he wanted me to do one letter or two, and so I  
17          had just put that and put it back in his chair  
18          for him to get back to me.

19                    And then, I had a question about whether  
20          we were responding to the ferry tolling issue  
21          and the tower issue, so I wanted to know  
22          whether he wanted me to include that or not,  
23          because when he had handed it to me to draft,  
24          he had only mentioned the GAP-funding issue.

25                    SENATOR NEWTON: Thank you. Was it

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1           your -- now, I'm not asking you -- just tell  
2           me what you know, okay?

3           MS. STANLEY: Sure.

4           SENATOR NEWTON: Was it your impression  
5           or your belief or understanding that -- that  
6           this was written by Mr. -- Mr. -- Pryor, or do  
7           you have any idea who wrote the typed portions  
8           of this?

9           MS. STANLEY: I really do not. He did  
10          not say, and that would be a total assumption  
11          on my part. He did -- I do not know.

12          SENATOR NEWTON: But it is -- it was your  
13          impression that this was coming from the  
14          Governor's office?

15          MS. STANLEY: Oh, absolutely.

16          SENATOR NEWTON: Okay. There's a little  
17          bit of handwriting at the bottom of that  
18          exhibit that's very faint.

19          MS. STANLEY: It says, "Jim's signature."  
20          I wasn't sure, again, if we were doing it for  
21          Jim's signature or for the Governor's  
22          signature.

23          SENATOR NEWTON: Thank you. Thank you  
24          very much. That does help clarify a few  
25          things for us. Thank you.

1           Back to Exhibit 8, for just a moment,  
2           there -- there's a reference, of course, to  
3           the "Governor's traveling, but on her next  
4           stop they want to connect you with her to  
5           discuss the attached issues." As General  
6           Trogon's assistant and working directly with  
7           him, are you aware of whether or not the  
8           Governor and General Trogon ever -- ever  
9           spoke or connected on this issue?

10           MS. STANLEY: I am not. I am not. I  
11           know Jim spoke with Pryor Gibson that day, but  
12           whether he spoke with the Governor or not, I  
13           have no knowledge of that.

14           SENATOR NEWTON: Okay. Are you familiar  
15           with the policy question that's involved in  
16           these letters?

17           MS. STANLEY: I am much more so now than  
18           I was prior to this.

19           SENATOR NEWTON: I figured that. But at  
20           the time that -- say, June the 12th and 13th,  
21           at that time, did you understand the  
22           significance in the changes between the memo  
23           that was written June the 8th and the proposed  
24           edits from the Governor's office?

25           MS. STANLEY: Having worked with Jim on



1 the June 8th letter to the appropriations  
2 co-chairs; I was slightly familiar with it.

3 I knew that it was a change primarily in  
4 the budget year, but I am not privy to a lot  
5 of the budget issues. I was not sure if  
6 something maybe had changed. I did not hear  
7 what -- what Susan and Pryor discussed when he  
8 first came into our office on the 14th with  
9 the revised letter. And even though I  
10 understood it was different; I did not  
11 understand the full significance of the  
12 change.

13 SENATOR NEWTON: Can you help me -- help  
14 us understand who else at DOT when this --  
15 this Exhibit 8 and the attached exhibits that  
16 came with it, who else at DOT was -- became  
17 aware of this? Did anybody else see this?  
18 Was Ms. Coward aware of it?

19 MS. STANLEY: Not to my knowledge. Jim  
20 was very familiar with these issues, and I  
21 think he felt very comfortable in responding  
22 totally on his own. Again, that's my  
23 assumption to my knowledge; he did not consult  
24 with anyone about this or share this  
25 information with anyone.

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1                   SENATOR NEWTON: Did you draft the  
2                   response that General Trogdon -- Trogdon, had  
3                   sent? Did you draft that for him?

4                   MS. STANLEY: I drafted it and then he  
5                   edited it adding the -- the sentence that was  
6                   revised later.

7                   SENATOR NEWTON: Okay. The -- let me go  
8                   back on that last part that you said to make  
9                   sure what you're telling me. Repeat that  
10                  for me.

11                  MS. STANLEY: He added the sentence after  
12                  I had drafted it and gave him for review -- he  
13                  wanted me to insert the sentence from his June  
14                  8th letter regarding the anticipated  
15                  litigation, therefore, requesting that the  
16                  funding be delayed until the following fiscal  
17                  year rather than the current fiscal year.

18                  SENATOR NEWTON: Okay. Let's make sure  
19                  we're really clear about what you're telling  
20                  us. Could you please turn to Exhibit Number  
21                  7?

22                  MS. STANLEY: Okay.

23                  SENATOR NEWTON: Now, I realize there's a  
24                  lot of handwritten edits on here. And just as  
25                  a preliminary fact, since we're looking at

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1           this exhibit here now today for the first  
2           time, these handwritten edits on Exhibit 7,  
3           are these the edits that Mr. Pryor [sic]  
4           brought to you on the morning of the 14th?

5           MS. STANLEY: That is correct.

6           SENATOR NEWTON: Okay. Now, which  
7           sentence is it that you said that General  
8           Trogon -- let me, before I ask that question,  
9           is this -- without the handwritten edits on  
10          it, is this the final draft that General  
11          Trogon approved and that you later sent out?

12          MS. STANLEY: That is correct, without  
13          the handwritten edits.

14          SENATOR NEWTON: Correct. And you sent  
15          this out to Ms. Beaty?

16          MS. STANLEY: Greer Beaty, our  
17          communications director. Yes.

18          SENATOR NEWTON: And that was a little  
19          before noon on the 13th; is that right?

20          MS. STANLEY: I think so, yes, somewhere  
21          around noon. Jim had asked me to send it to  
22          her to review, and after she reviewed it, to  
23          send it to the communications director in the  
24          Governor's office and to Pryor Gibson for  
25          their review.

1                   SENATOR NEWTON: Okay. The -- we had  
2                   some e-mails, but I don't -- obviously, we  
3                   don't have everything. So can you help us  
4                   timeline-wise about what time of the day --  
5                   you sent the e-mail to Ms. Beaty a little  
6                   before lunch -- a little before noon, I should  
7                   say. Can you tell us about what time you  
8                   became clear that she thought everything was  
9                   okay?

10                  MS. STANLEY: It was late in the day. I  
11                  found out that she was not going to be  
12                  available until after 2 that day. I think she  
13                  was out of the office. I'm not sure. I just  
14                  found out she was not going to be able to -- I  
15                  think she e-mailed or called, and I do not  
16                  remember which at this point, letting me know  
17                  that -- I believe she left me a message that  
18                  she was out of the office and she would not be  
19                  able to review them until she got back.

20                  I had not heard from her in a little bit,  
21                  and so I called her. And she told me that she  
22                  had already sent them over to the  
23                  communications director in the Governor's  
24                  office for review. And so I asked her if she  
25                  had also sent them to Pryor, and she said she

1 had not. And I asked if she would like me to  
2 do that, and she said, "Please." So I then  
3 sent them over to the Governor's office. And  
4 that was later in the afternoon, probably  
5 around 3:30, 4.

6 SENATOR NEWTON: From a communications'  
7 standpoint, she thought General Trogdon's  
8 draft was appropriate and --

9 MS. STANLEY: She did. She did no edits  
10 to it.

11 SENATOR NEWTON: Signed off on it?

12 MS. STANLEY: Uh-huh.

13 SENATOR NEWTON: And when you sent it to  
14 Mr. Gibson and -- I'm sorry. The  
15 communications in the Governor's office?

16 MS. STANLEY: Chris Mackey. I believe.

17 SENATOR NEWTON: Thank you. Did you hear  
18 back from them?

19 MS. STANLEY: I did not.

20 SENATOR NEWTON: Okay.

21 MS. STANLEY: I did not. Not until the  
22 following morning.

23 SENATOR NEWTON: It was the following  
24 morning that you heard back from them. Okay.

25 Let me go back to the exhibit. And you said

1 just a few moments ago, a few minutes ago,  
2 that General Trogdon inserted a sentence into  
3 this --

4 MS. STANLEY: Yes.

5 SENATOR NEWTON: -- that would be his  
6 final draft? Could you read that sentence for  
7 me, which one it is --

8 MS. STANLEY: Yes.

9 SENATOR NEWTON: -- to be clear?

10 MS. STANLEY: It's in the middle  
11 paragraph. "Due to the anticipated litigation  
12 schedule, \$35 million annual planned GAP funds  
13 are required by 2014 -- fiscal year 2014."

14 SENATOR NEWTON: Okay. Now, Ms. Stanley,  
15 I think if I heard you correctly in your  
16 statement that you read in the beginning, that  
17 you were the one that actually made the edits  
18 that Mr. Gibson had brought --

19 MS. STANLEY: I did.

20 SENATOR NEWTON: -- is that right?

21 Am I correct that -- and I know --  
22 hopefully, this seems obvious, but am I  
23 correct that his edits were specifically to  
24 the sentence that General Trogdon had  
25 inserted?

1 MS. STANLEY: Yes. Yes, sir.

2 SENATOR NEWTON: At the time that this  
3 was happening -- and I know everything was in  
4 a hurry. But at the time this was happening  
5 and Mr. Gibson was -- I won't use the word  
6 "insisting." That's probably not the right  
7 word to use. But was strongly encouraging  
8 these edits --

9 MS. STANLEY: Uh-huh.

10 SENATOR NEWTON: -- did -- what do you  
11 think about that?

12 MS. STANLEY: Without trying to -- to put  
13 any blame on anyone, the two -- the two things  
14 that were clear in my mind that made this okay  
15 to me were that Jim had told me to ask Pryor  
16 to work with Susan on the changes. That, to  
17 me -- and this may have been an error on my  
18 part. It made me think whatever Susan  
19 approved would be okay with Jim.

20 Also, having worked with Susan for many  
21 years and having the utmost respect for her  
22 knowledge, her expertise, I would have never  
23 questioned if she said it was okay. I trusted  
24 her completely that she -- she was doing what  
25 she thought Jim would be okay with.

1           And also, I would like to add that we  
2           knew that Jim was not -- not -- could not be  
3           reached.

4           SENATOR NEWTON: When -- as far as you  
5           know, when was Mr. Gibson made aware of that?  
6           When was the first time he was aware of that?

7           MS. STANLEY: Of the --

8           SENATOR NEWTON: That General Trogdon was  
9           not available that morning of the 14th.

10          MS. STANLEY: When I called him back,  
11          after I had texted Jim and Jim texted me back  
12          that he was in the middle of an exercise and  
13          unavailable and asking him to work with Susan.  
14          When I called Mr. Gibson back, I told him that  
15          Jim was in the middle of an exercise, that he  
16          could not leave, and would not be able to talk  
17          to him. And so, he had asked that he work  
18          with Susan Coward.

19          SENATOR NEWTON: And that was all taking  
20          place early, say 8:30ish to 9ish?

21          MS. STANLEY: It was between 9:30 to 10.

22          SENATOR NEWTON: Oh, okay. That late.

23          MS. STANLEY: Uh-huh. Yes. Because it  
24          was 9:40ish-something when I texted Jim and he  
25          texted me back. And I texted Jim within a few



1 minutes of Mr. Gibson's call.

2 SENATOR NEWTON: You said in your  
3 statement that Mrs. Coward -- Ms. Coward  
4 "hesitated," I believe, was the word you used  
5 in your statement before making the changes or  
6 approving the changes? Is that a better way  
7 to put it?

8 MS. STANLEY: She hesitated in the way  
9 she needed to sign the letter.

10 SENATOR NEWTON: Not over the change --

11 MS. STANLEY: No.

12 SENATOR NEWTON: -- but over the manner  
13 the signature would be applied?

14 MS. STANLEY: Yes, I did not sense any  
15 hesitation in the changes, only when she got  
16 ready to sign. I have known Susan, as I said,  
17 for many years and she's always preferred to  
18 sign her name for the person she was signing  
19 for rather than sign the person's actual name.  
20 And so I could tell she was -- even though Mr.  
21 Gibson wanted her to sign Jim's name -- and  
22 I -- I could just tell she was hesitant about  
23 which way she wanted to sign.

24 SENATOR NEWTON: Just a few more  
25 questions, and then I think I'm done.

1           The -- help me understand Ms. Coward's  
2           role in the hierarchy at DOT. Who does she  
3           answer to.

4           MS. STANLEY: She reports to Mr. Trogdon.

5           SENATOR NEWTON: So is that her direct  
6           supervisor?

7           MS. STANLEY: He is.

8           SENATOR NEWTON: And is it fair to say  
9           that she would be very familiar with the  
10          policy implications of these changes?

11          MS. STANLEY: I cannot make that  
12          statement. I really don't know. I know she's  
13          very familiar with a lot of budget issues in  
14          her role, but there -- there's so much stuff  
15          that goes on at DOT, so many projects issues,  
16          so many budget issues; to say she was familiar  
17          with this one issue, I cannot make that  
18          statement. I -- I assumed she was at that  
19          time, but that -- that was an assumption.

20          SENATOR NEWTON: And just to be clear for  
21          the record, it's your testimony that there  
22          was -- there was no -- let me rephrase that.

23          Was there any pressure applied to you to  
24          make these changes beyond a sense of urgency  
25          because of time?

1 MS. STANLEY: No more than 15 minutes.

2 And the only reason it took that long for the  
3 edits was because I had to insert the part  
4 about the ferry tolling and I had to go back  
5 and redo the opening paragraph to address that  
6 issue.

7 SENATOR NEWTON: You anticipated my  
8 question. Thank you. That speeds it up.

9 SENATOR APODACA: Good.

10 SENATOR NEWTON: I think that's all I  
11 have. That was it.

12 SENATOR APODACA: Thank you, Senator  
13 Newton.

14 SENATOR NEWTON: Thank you, Ms. Stanley.

15 SENATOR APODACA: Okay. Any questions  
16 from the committee? Okay. Ms. Stanley, thank  
17 you very much. I appreciate it.

18 Our next person will be Susan Coward.  
19 She'll be right in. Yeah, come on up here.  
20 Do you have an opening statement or anything  
21 you'd like to make? If you would.

22 MS. COWARD: Want me to talk about the  
23 event?

24 SENATOR APODACA: Yeah. If you have a  
25 statement you'd like to make.

1 out. what kind of proceeding this is.

2 SENATOR APODACA: We're just trying to  
3 get to the bottom of the letter to see where  
4 we're going to refer this or if we're going to  
5 refer this. That's all we're doing.

6 Ms. Coward.

7 MS. COWARD: Thank you, Mr. Chairman.  
8 Members of the committee, my name is Susan  
9 Coward. I'm deputy secretary for  
10 intergovernmental affairs with the Department  
11 of Transportation. And if it's okay with you,  
12 I would like to give a brief statement of the  
13 events of what has transpired regarding this  
14 issue.

15 On the morning of June 14th, I was  
16 focused on an important piece of legislation  
17 that was the subject of a meeting that morning  
18 at 9 o'clock in the speaker's office involving  
19 the secretary, department CFO, and the  
20 treasurer.

21 It was around that time, around 9  
22 o'clock, Mr. Trogdon's administrative  
23 assistant informed me that Mr. Gibson had  
24 contacted her requesting to talk to Mr.  
25 Trogdon regarding edits to draft letters. Mr.

1 Trogdon was in Charlotte that day and not  
2 available between the hours of 9 and 12 noon.  
3 He requested that they work with me on the  
4 proposed changes.

5 It was some time around 9:30 when Mr.  
6 Gibson arrived at the DOT office, presented  
7 the proposed changes to draft letters. He did  
8 indicate they had been reviewed by the  
9 Governor's staff and attorneys. Specifically  
10 he stated that the modifications clarified  
11 that the department could proceed with the  
12 projects in the absence of legal actions and  
13 that the letters were needed before 11  
14 o'clock.

15 I was not intimately familiar with the  
16 funding timing issues associated with the  
17 projects that the letters referred to and, in  
18 my quick review of the letters, I did not  
19 notice anything in the revisions that appeared  
20 inappropriate or inaccurate.

21 Mr. Gibson returned to the office  
22 sometime around 10 o'clock and waited while  
23 the letters were being finalized. It was  
24 about the same time that Secretary Conti and  
25 our CFO returned from their meeting in the

1 speaker's office.

2 When the revised letters were ready, I  
3 informed Mr. Gibson that I sign my name on  
4 behalf of Mr. Trogdon when signing in his  
5 absence. Mr. Gibson stated that the letters  
6 needed Mr. Trogdon's signature. It was  
7 brought to my attention that electronic  
8 signature was available. I had not known that  
9 previously.

10 Since the modification didn't appear  
11 significant and he needed the letters in a  
12 hurry, I agreed that the electronic signature  
13 could be affixed. And at that point, I went  
14 back into my meeting to debrief with the  
15 secretary and our CFO on the other piece of  
16 legislation.

17 It was later that day, sometime after Mr.  
18 Gibson left with the copies of the letter, Mr.  
19 Trogdon's assistant sent him an e-mail  
20 regarding what had transpired. And it  
21 contained copies of the letters. Shortly  
22 after noon, when he was available again, she  
23 replied by e-mail that the letters weren't  
24 accurate.

25 Immediately upon reading his e-mail, I

1       replied that I took full responsibility for  
2       authorizing the edit as presented. He  
3       recalled the letters that afternoon when he  
4       returned from Charlotte.

5       I was focused on other issues and not  
6       intimately familiar with the funding timing  
7       issues associated with those projects. I was  
8       more focused on what the department could do  
9       if there were no legal actions taken regarding  
10      the projects.

11       Again, Mr. Gibson was in a hurry for the  
12      letters and, in haste, a mistake was made.  
13      And just in closing, I would like to tell the  
14      committee that the Department of  
15      Transportation has worked hard to earn the  
16      trust and the confidence of the public and  
17      this General Assembly. We have worked and  
18      will continue to work in an open and  
19      transparent manner.

20       Regarding the unfortunate situation from  
21      two weeks ago, I took responsibility with my  
22      boss where I was at fault. I apologized to  
23      him and my colleagues, and I express the same  
24      to you today.

25       SENATOR APODACA: All right. Ms. Coward,

1 we're going to -- Senator Newton is going to  
2 ask you a few questions. And if we have any  
3 from the committee, we'll do that. Senator  
4 Newton.

5 SENATOR NEWTON: Thank you, Mr. Chairman.

6 Ms. Coward, you have some exhibits up  
7 there in a book. It should be right in front  
8 of you, hopefully, to make it easy for you.

9 MS. COWARD: Okay.

10 SENATOR APODACA: It's just the letters.

11 SENATOR NEWTON: Thank you. Would you  
12 look at Exhibit Number 7?

13 MS. COWARD: Uh-huh. Yes, sir.

14 SENATOR NEWTON: And at the outset, let  
15 me say I really appreciate you being here and  
16 I appreciate your willingness to take  
17 responsibility for what happened. I think  
18 that's very -- very responsible of you. I'm  
19 not sure that responsibility is all yours to  
20 take, but I really appreciate that. And I  
21 believe that you are fulfilling the vision  
22 that you -- as you expressed and General  
23 Trogdon has expressed about openness at DOT  
24 and trying to work with the legislature. And  
25 I appreciate that. So I appreciate you being



1 here. And it will just be a few questions.

2 Were you aware of this -- this document?

3 And I'm not referring to the handwritten

4 edits. I'm talking about this document

5 without the edits, the handwritten notes.

6 Were you aware of this document before June

7 14th?

8 MS. COWARD: No. I had not seen the  
9 draft before June 14th.

10 SENATOR NEWTON: So is it accurate to say  
11 that you were not aware that General Trogdon  
12 had inserted the sentence that these  
13 handwritten edits altered?

14 MS. COWARD: Okay. Repeat that question.

15 SENATOR NEWTON: Certainly. I don't want  
16 to confuse you.

17 MS. COWARD: Yeah.

18 SENATOR NEWTON: Based on your response,  
19 I take it you were not aware that General  
20 Trogdon had inserted the sentence -- and I'll  
21 read it out loud. "Due to the anticipated  
22 litigation schedule, 35 million annual planned  
23 GAP funds are required FY 2014."

24 MS. COWARD: No, I was not.

25 SENATOR NEWTON: So when -- when Mr.

1 Gibson came the morning of the 14th, with this  
2 -- with a copy of this with the handwritten  
3 edits on it, you, based on your testimony,  
4 were not aware of the significance of these  
5 changes?

6 MS. COWARD: No, sir. No.

7 SENATOR NEWTON: When -- when were you  
8 personally first aware that Mr. Gibson and the  
9 Governor's office wanted to alter this letter  
10 of General Trogdon?

11 MS. COWARD: I did not know the specific  
12 letter. I was aware at 9 o'clock that there  
13 were letters, that he needed to talk to  
14 General Trogdon, that there were letters that  
15 needed some edits, and that's when Ms. Stanley  
16 informed me that Mr. Trogdon had asked him to  
17 work with me. I did not see this until he  
18 arrived at the office around 9:30.

19 SENATOR NEWTON: Okay. Other than  
20 speaking with Ms. Stanely and learning through  
21 her that General Trogdon wanted you to work on  
22 getting it straight, was there anybody else at  
23 DOT or the Governor's office that you  
24 communicated with about there needing to be  
25 changes?

1 MS. COWARD: No, I did not.

2 SENATOR NEWTON: So -- so it's correct is  
3 that the first you spoke to Mr. Gibson was  
4 when he came that morning, around 9:30 or so?

5 MS. COWARD: Correct. Around 9:30.

6 SENATOR NEWTON: What exactly did Mr.  
7 Gibson tell you when he arrived at 9:30 and  
8 presented these edits, as best you recall?

9 MS. COWARD: The best I recall -- again,  
10 there was a lot going on and a lot happening.  
11 He removed the copy with his handwritten notes  
12 from his pocket, said that there was some  
13 needed edits to two letters to Senator White  
14 and Representative Current. He had talked  
15 with the attorneys from the Governor's office.  
16 These were just clarifications that were  
17 needed, modifications about what the  
18 department could do with the projects if there  
19 was no legal action.

20 And the way I read it -- and again, it  
21 was a quick review as Mr. Gibson was talking.  
22 He needed these letters before 11 o'clock to  
23 get them in the hands of the respective  
24 recipients because they would be going home  
25 that Thursday very quickly. Then he asked how

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1 long it would take us to do the revisions.

2 SENATOR NEWTON: Okay. So your -- I  
3 don't want to cut you off.

4 MS. COWARD: No, sir.

5 SENATOR NEWTON: So your understanding  
6 about why it was urgent was because the  
7 members would be going home soon?

8 MS. COWARD: That it was a Thursday and  
9 they would be going home immediately after  
10 session.

11 SENATOR NEWTON: So he didn't mention  
12 anything about that the Senate was going to be  
13 debating and voting on the budget?

14 MS. COWARD: No, sir. He didn't. I  
15 mean, that did not come up during the  
16 conversation.

17 SENATOR NEWTON: At any time during this  
18 process, did you feel that there was something  
19 about these edits that might be a problem?

20 MS. COWARD: No, sir, I didn't, as it was  
21 explained to me, the intent of the change.

22 SENATOR NEWTON: Do you know who  
23 specifically at the Governor's office had  
24 reviewed this document and these edits?

25 MS. COWARD: To the best of my

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1 Good.

2 MR. McLAUGHLIN: Good morning, Mr.  
3 Chairman, members of the committee. My name  
4 is Kevin McLaughlin. I'm the Deputy Chief of  
5 Staff for the Governor. I do have a statement  
6 I would like to read and certainly would be  
7 happy to answer any questions that you have.

8 On June 13th, a Wednesday afternoon,  
9 Pryor Gibson asked for my assistance with a  
10 matter involving DOT and the budget for the  
11 fiscal year 2012-2013. He showed me a June  
12 8th letter signed by the Chief Operating  
13 Officer of DOT.

14 This letter indicated that because of  
15 expected litigation involving two projects,  
16 there was no need for the budget to include  
17 funding for the projects until fiscal year  
18 2013-'14. This was contrary to the budget  
19 passed by the General Assembly last year, the  
20 Governor's recommended budget adjustments, and  
21 the House budget adjustments that had passed  
22 the House only eight days before.

23 All of those budgets have kept the  
24 funding in place for fiscal year 2012-'13. To  
25 my knowledge, the June 8th letter was the

1 first time the DOT had suggested that funding  
2 was not needed. Mr. Gibson and I discussed a  
3 draft letter that had been circulating between  
4 Mr. Gibson and the Chief Operating Officer  
5 which was to supplement the June 8th letter.  
6 This draft letter left no option for funding  
7 and construction of the two projects if the  
8 expected litigation never occurred or had  
9 resolved prior to July 1, 2013.

10 Mr. Gibson asked for my assistance in  
11 drafting a new sentence drafting -- I'm sorry.  
12 Addressing this potential. I think many of  
13 you have seen that draft letter that included  
14 my suggested modification. To my knowledge,  
15 Mr. Gibson then delivered the draft letter for  
16 DOT's review and approval.

17 I have since learned that the Chief  
18 Operating Officer knew something that Mr.  
19 Gibson and I would assume the Deputy Secretary  
20 Ms. Coward did not know. Chief Operating  
21 Officer knew that DOT had borrowed more money  
22 than it needed for a third project, the Monroe  
23 Bypass. The Chief Operating Officer knew that  
24 he planned to use this extra money for the  
25 other two projects at issue if it was needed.

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1 I'd be happy to take any questions.

2 SENATOR APODACA: Senator Newton.

3 SENATOR NEWTON: Thank you, Mr. Chairman.

4 Good morning.

5 MR. McLAUGHLIN: Good morning, sir.

6 SENATOR NEWTON: I appreciate you being  
7 here today. I want to ask you some questions  
8 about process, because you weren't in the room  
9 when I said this before. Our main concern  
10 here is to make sure that the legislature is  
11 getting accurate information and is not either  
12 through negligence or intent of being misled  
13 at any time regardless of where it's coming  
14 from, what administration or what source. So  
15 if there was a mistake, we need to clarify  
16 that so it doesn't happen again. If there's  
17 something worse than that, we need to make  
18 clear it's not going to be tolerated.

19 So I appreciate you being here and I need  
20 to ask you just some general questions, just  
21 to understand the playing field, if you will.

22 MR. McLAUGHLIN: Uh-huh.

23 SENATOR NEWTON: You're the Deputy Chief  
24 of Staff; correct?

25 MR. McLAUGHLIN: I am.

1                   SENATOR NEWTON: Help me understand  
2                   briefly the picture there in the Governor's  
3                   office. Do you -- I mean, do you answer  
4                   directly to the Governor, or do you answer to  
5                   Mr. Cobb? Help me out with that.

6                   MR. McLAUGHLIN: Maybe it depends on the  
7                   day. But the chief of staff and I, I would  
8                   say that we work with the Governor closer than  
9                   others. And all of the Governor's staff would  
10                  report to one of us.

11                  SENATOR NEWTON: Mr. Cobb wasn't involved  
12                  in this at all, was he?

13                  MR. McLAUGHLIN: Not to my knowledge.

14                  SENATOR NEWTON: Always to your  
15                  knowledge. You haven't spoken to Mr. Cobb  
16                  about it?

17                  MR. McLAUGHLIN: No.

18                  SENATOR NEWTON: Did you ever speak to  
19                  the Governor about it?

20                  MR. McLAUGHLIN: No.

21                  And I want to clarify my answer, Senator.  
22                  I am referring to this -- my involvement in  
23                  this draft letter. This is the June 13th time  
24                  period and I guess the following day when the  
25                  letter was issued. I had no conversations



1 with Ms. -- with the Governor about that.

2 SENATOR NEWTON: There is a book of  
3 exhibits there in front of you just to make it  
4 easier for everybody. If you would, please,  
5 take a look at Exhibit Number 8.

6 MR. McLAUGHLIN: Yes.

7 SENATOR NEWTON: Have you seen this  
8 before at any time?

9 MR. McLAUGHLIN: I have only seen this  
10 after the request for public records came from  
11 the News & Observer, and I did see a copy of  
12 the records that were produced. That was the  
13 first time I saw this.

14 SENATOR NEWTON: All right. Were you  
15 aware at any time prior to the -- to the 14th  
16 that Mr. Gibson had delivered this to the  
17 Department of Transportation?

18 MR. McLAUGHLIN: I want to clarify.  
19 "This," being Exhibit 8?

20 SENATOR NEWTON: Exhibit 8, yes.

21 MR. McLAUGHLIN: No. I have no knowledge  
22 that Mr. Gibson delivered Exhibit 8 to DOT.  
23 And I want to make sure that you and I are  
24 looking at the same document, Exhibit 8.

25 SENATOR NEWTON: Exhibit 8. Yes,

1 correct.

2 It's been established earlier this  
3 morning that Mr. Gibson, at least according to  
4 Ms. Stanley, hand-delivered this note with --  
5 with several attachments, and so that's why --

6 MR. McLAUGHLIN: Sure.

7 SENATOR NEWTON: -- I stated that as a  
8 fact.

9 At any time after, did you become -- were  
10 you aware -- let me rephrase that. Were you  
11 aware at any time that the Governor wanted to  
12 talk to General Trogdon about this issue?

13 MR. McLAUGHLIN: During the time period  
14 of June 13th, 14th, as the letter was being  
15 produced, absolutely not.

16 SENATOR NEWTON: Yeah. At any time  
17 between the 12th and 14th.

18 MR. McLAUGHLIN: No. No, sir.

19 SENATOR NEWTON: So Mr. Gibson had never  
20 told you at any time during that time period  
21 that he had asked General Trogdon to connect  
22 with the Governor about this issue?

23 MR. McLAUGHLIN: I don't recall that, no.

24 SENATOR NEWTON: Okay. I believe in your  
25 statement you indicated that Mr. Gibson asked

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1 for assistance on the 13th?

2 MR. McLAUGHLIN: Yes.

3 SENATOR NEWTON: What -- what did Mr.  
4 Gibson tell you on the 13th? Why did he need  
5 your assistance?

6 MR. McLAUGHLIN: He asked for me my help  
7 in insert- -- or in drafting a sentence.

8 SENATOR NEWTON: Why?

9 MR. McLAUGHLIN: Why did he ask for that?  
10 I can't speak to his intentions. It was a  
11 Wednesday afternoon. I was sitting in my  
12 office, he came in explaining he was working  
13 on a draft with Mr. Trogdon. He and I  
14 discussed the letter. Both of us realized the  
15 letter said, "Because of expected litigation,"  
16 which obviously left open -- I'm assuming,  
17 Senator, you are a lawyer as well, and you  
18 understand litigation can resolve or never be  
19 filed. He and I solved that, and opened up  
20 the potential, at least based on the letter,  
21 that funds would be needed.

22 SENATOR NEWTON: Okay. And I appreciate  
23 that. I think that partially gets to what I'm  
24 trying to make sure I'm clear about.

25 MR. McLAUGHLIN: Sure.

1                   SENATOR NEWTON: Why was it imperative,  
2                   from your understanding, that these monies be  
3                   put in the current fiscal year as opposed to  
4                   how General Trogdon had it drafted for 2014?

5                   MR. McLAUGHLIN: It was my understanding  
6                   from reading the letters that the chief  
7                   operating officer's letter would have resulted  
8                   in -- if a litigation did not occur or settled  
9                   prior to July 1st, 2013, there would be no  
10                  funds available to build these very important  
11                  projects.

12                  It's been stated before the Governor  
13                  thought these two projects were important, and  
14                  we wanted to make sure, if litigation did not  
15                  occur or resolved, the funding would be in  
16                  place to build the projects.

17                  SENATOR NEWTON: But yet, the Governor  
18                  didn't write that letter stating that?

19                  MR. McLAUGHLIN: No.

20                  SENATOR NEWTON: It was asked that  
21                  General Trogdon's name be applied to a letter  
22                  that stated that?

23                  MR. McLAUGHLIN: I'm not sure. I'm not  
24                  aware of that.

25                  SENATOR NEWTON: Well, you're aware of

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1           these edits that were done to his letter;  
2           correct?

3                     MR. McLAUGHLIN: I am.

4                     SENATOR NEWTON: Because you participated  
5           in drafting those edits; is that right?

6                     MR. McLAUGHLIN: I drafted the  
7           handwriting there on a letter that Mr. Trogdon  
8           and Mr. Gibson were working on together.

9                     SENATOR NEWTON: And let's confirm that.  
10          If you would, please, look at Exhibit Number  
11          7.

12                    MR. McLAUGHLIN: Yes.

13                    SENATOR NEWTON: The handwritten notes  
14          along the right margin, this is your  
15          handwriting?

16                    MR. McLAUGHLIN: It is, and my fifth  
17          grade teacher would be very upset and  
18          disappointed in me.

19                    SENATOR NEWTON: But we can make it out,  
20          I think. And I'm going to read it out aloud  
21          and you correct me if I -- if I misstate it.  
22          Okay?

23                    MR. McLAUGHLIN: Sure.

24                    SENATOR NEWTON: "Not withstanding to be  
25          certain that DOT can proceed with this

1 important project as soon as possible."

2 Those are the handwritten -- and then --  
3 I'm sorry. And then, "in this budget cycle."

4 MR. McLAUGHLIN: If I could, Senator, if  
5 you wouldn't mind --

6 SENATOR NEWTON: Please.

7 MR. McLAUGHLIN: The intent as drafted,  
8 if you will see the preceding sentence that  
9 begins, "On June 8th," and ends with, "based  
10 on clear indication of legal action from third  
11 parties." And then my handwriting begins,  
12 "Notwithstanding. To be certain that the --  
13 that DOT can proceed with this important  
14 project as soon as possible, the \$35 million  
15 annual planned GAP funds are needed in this  
16 budget cycle."

17 That -- that was the intent of the  
18 scribble.

19 SENATOR NEWTON: Yes, sir. If you would  
20 please turn to Exhibit 3. And I draw your  
21 attention to that middle paragraph and that  
22 sentence beginning, "Notwithstanding."

23 MR. McLAUGHLIN: I see that.

24 SENATOR NEWTON: And that -- if you would  
25 review that and correct me if I am wrong. As`

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1           you just read that, that is exactly how it was  
2           typed into this exhibit?

3           MR. McLAUGHLIN: Yes. The person could  
4           read my handwriting and understood how I had  
5           intended it. That's what it appears.

6           SENATOR NEWTON: Okay. You would agree  
7           with me that that is a substantive change in  
8           that sentence, wouldn't you?

9           MR. McLAUGHLIN: I would say it's a  
10          clarifying sentence in a draft letter that was  
11          being worked with or worked on by the Chief  
12          Operating Officer and Mr. Gibson.

13          SENATOR NEWTON: Were you aware that that  
14          sentence that was proposed to be edited by you  
15          and Mr. Gibson, were you aware that that  
16          sentence was specifically drafted and inserted  
17          by General Trogdon himself?

18          MR. McLAUGHLIN: When Mr. Gibson left my  
19          office, my understanding was he was going to  
20          take the draft letter, which included -- which  
21          included this modification to DOT for their  
22          review and approval.

23          SENATOR NEWTON: I appreciate that. But  
24          my question was, were you aware that General  
25          Trogdon himself had inserted that sentence in

1           this draft letter, the sentence that you and  
2           Mr. Gibson were going to alter?

3           MR. McLAUGHLIN: I don't have any  
4           independent knowledge of how this letter made  
5           it from my handwriting on a draft letter to  
6           the final version we see here as Exhibit 3.

7           SENATOR NEWTON: I'm referring to Exhibit  
8           7.

9           MR. McLAUGHLIN: I'm sorry. Exhibit 7?

10          SENATOR NEWTON: Yes, sir. Let me go  
11          back to Exhibit 7. And I'm sorry to confuse  
12          you on that. Exhibit 7 is the one that has  
13          your handwriting on the right-hand margin?

14          MR. McLAUGHLIN: Yes.

15          SENATOR NEWTON: Okay. And my question  
16          goes specifically to the sentence that y'all  
17          were proposing to alter, were you aware that  
18          General Trogdon himself had added that  
19          sentence into his draft?

20          MR. McLAUGHLIN: No, Senator. And I'm  
21          pretty sure I'm not following you. Because  
22          I'm assuming you're referring to Exhibit 3 as  
23          his draft.

24          SENATOR NEWTON: No, sir. I'm referring  
25          to Exhibit 7 as his draft, minus your



1 handwritten notes.

2 MR. McLAUGHLIN: Okay.

3 SENATOR NEWTON: That is the draft as we  
4 have had it established by Ms. Stanley that  
5 was sent to the Governor's office and to Mr.  
6 Gibson for approval. And that's the draft  
7 that y'all had to put your handwriting on?

8 MR. McLAUGHLIN: Yes, that is correct.

9 SENATOR NEWTON: Okay. And it's been  
10 established for your benefit a little earlier  
11 this morning, that General Trogdon himself  
12 according to Ms. Stanley, during their  
13 internal drafting process, he specifically  
14 inserted the sentence -- and I'll read it  
15 again. "Due to the anticipated litigation  
16 schedule, \$35 million annual plan GAP funds  
17 are required FY 2014." Okay. And that's the  
18 sentence that y'all wanted to alter; is that  
19 correct?

20 MR. McLAUGHLIN: That's the sentence that  
21 was altered by my modifications, yes. Because  
22 the preceding sentence says, "The money is not  
23 needed because of a clear indication of legal  
24 action," which left no option if -- at least  
25 based on the letter, left no option for

1 funding this project if litigation resolved  
2 earlier than anticipated or was never filed.

3 And of course, all of these  
4 modifications, the entire draft process, was  
5 subject to DOT review and approval.

6 SENATOR NEWTON: Is it -- is it customary  
7 for you guys in the Governor's office to send  
8 someone over to an agency to alter positions  
9 when you don't agree with what they have  
10 already written?

11 MR. McLAUGHLIN: I would hope you're not  
12 saying that this process was altering  
13 someone's position, because that's not what  
14 was intended at the time. It was a  
15 clarification of what I saw as an open hole in  
16 this letter, always subject to DOT's review  
17 and approval.

18 SENATOR NEWTON: Well, with all due  
19 respect, I am suggesting that based on the  
20 prior testimony or statements that have been  
21 made here before this committee and based upon  
22 the documents that we have before us,  
23 specifically finding out from General Trogdon  
24 himself, he had inserted the very sentence  
25 that you and Mr. Gibson proposed to be

1 altered.

2 And in the backdrop, in context of the  
3 budget debate and Senator White's position and  
4 Representative Current's position in regards  
5 to these projects, it seems quite clear to me  
6 that that's exactly what happened.

7 My question is, is that customary? Is  
8 that what you normally do?

9 MR. McLAUGHLIN: It is not customary nor  
10 am I aware of any situation where a cabinet  
11 agency's position or policy has been altered  
12 in any way in a manner they don't agree with.

13 Of course, we have an issue here due to  
14 lack of coordination among Mr. Trogon, Mr.  
15 Gibson, to some extent me, and other folks  
16 within DOT, including Deputy Secretary, that  
17 an incident occurred, but never with any  
18 intent to alter anyone's position.

19 SENATOR NEWTON: And finally, again, to  
20 your knowledge, despite the letter from Mr.  
21 Gibson to DOT, to your knowledge, the Governor  
22 hasn't been aware of any of these changes that  
23 were proposed?

24 MR. McLAUGHLIN: To my knowledge, the  
25 Governor was not aware of Exhibit 7 or even

1 Exhibit 3 until this matter came to light  
2 after the fact.

3 SENATOR NEWTON: Mr. McLaughlin, after  
4 this matter came to light, who have you  
5 discussed these issues with?

6 MR. McLAUGHLIN: In my role as Deputy  
7 Chief of Staff, I certainly dealt with this  
8 issue as it came to light, both from the Chief  
9 Operating Officer's retraction of this letter.  
10 I'm sure I have spoken with Mr. Trogdon, the  
11 secretary, others in the office.

12 SENATOR NEWTON: Have you spoken with the  
13 Governor about it?

14 MR. McLAUGHLIN: I'd like to keep my  
15 conversations with the Governor sort of  
16 protected, but you can assume that this matter  
17 has come up and we have discussed it.

18 SENATOR NEWTON: Well, I'm not asking you  
19 what you discussed. I'll leave that alone  
20 today. But I will ask you, you did discuss  
21 this with her?

22 MR. McLAUGHLIN: This incident has been  
23 discussed with the Governor, yes, but after  
24 the fact, after letters had been drafted,  
25 after the letters had been sent, and once this

1 matter arose with the Chief Operating  
2 Officer's retraction.

3 SENATOR NEWTON: You, of course, have  
4 spoken after the fact with Mr. Gibson about  
5 it?

6 MR. McLAUGHLIN: That would be correct.

7 SENATOR NEWTON: Okay. And is it fair to  
8 assume you all have had extensive  
9 conversations about it, or how would you  
10 characterize it?

11 MR. McLAUGHLIN: It's fair to  
12 characterize this incident as a matter of  
13 concern. And in my role as Deputy Chief of  
14 Staff with the other staff in the Governor's  
15 office reporting to me, this is a matter that  
16 we take very seriously, and we'll deal with it  
17 appropriately and address it appropriately,  
18 both between our office and the Department of  
19 Transportation.

20 SENATOR NEWTON: And in those  
21 conversations with Mr. Gibson, did he ever  
22 inform you that he had communicated to DOT  
23 that the Governor wished to speak to General  
24 Trogdon about these issues?

25 MR. McLAUGHLIN: Not during the June

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1 12th, 13th time period, no.

2 SENATOR NEWTON: Did he inform you of  
3 that after the 14th?

4 MR. McLAUGHLIN: I know that -- I know  
5 that when -- I'm sorry. Exhibit 8 was  
6 produced, I'm certainly aware of a  
7 conversation requesting what it says here,  
8 "Connecting you with her to discuss the  
9 attached issues."

10 SENATOR APODACA: Senator, are you about  
11 ready to wrap this up?

12 SENATOR NEWTON: I think that's all the  
13 questions I have. Right on time.

14 SENATOR APODACA: Questions from the  
15 committee? Mr. McLaughlin, thank you.

16 Okay. We're going to take a five-minute  
17 break to get set up and then we're going to  
18 start hearing bills. And the order we're  
19 going to go in is 585, finish that up from  
20 yesterday, and then move on to 847.

21 (RECESS, 10:36 - 10:42 A.M.)

22 SENATOR APODACA: Okay. Let's come to  
23 order. Take the interviews outside now.  
24 Senator Nesbitt, can I see you a moment,  
25 please? Senator Blue, you want to make a

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1 statement, please?

2 SENATOR BLUE: I do. Thank you very  
3 much, Mr. Chairman.

4 SENATOR APODACA: Hold on one second, if  
5 you would. Go ahead, Senator Blue. Go ahead.

6 SENATOR BLUE: Mr. Chairman, I want to  
7 comment briefly on what we just witnessed. I  
8 understand this -- this legislature's need to  
9 make sure that we have the viable information  
10 to make a decision. Nobody could believe in  
11 that process more than I do. And that's one  
12 of the reasons that we basically checked,  
13 recheck, and do every other kind of thing we  
14 can do to ensure the accuracy of information  
15 that we receive.

16 But I think that this process that I  
17 witnessed today especially is one disturbing  
18 to me. This is the first time I have seen  
19 this. I watched this legislative process  
20 closely for four years and participating in it  
21 fully for three years.

22 When we have a one-sided  
23 cross-examination of civil servants, these two  
24 ladies who showed up for one-sided  
25 cross-examination without anybody being able

1 to object to the kind of questions, the  
2 leading and all of that going on, who were  
3 doing their job in this kind of process.

4 When the General justified last week or  
5 two weeks ago as to what happened with his  
6 recalling the letter, Mr. Gibson testified  
7 what happened when he wrote the letter, it  
8 seemed to me if there were further questions,  
9 we could have talked to the people  
10 individually and not subject career civil  
11 servants who were doing their jobs to this  
12 kind of proceeding.

13 I think it's a blot on this legislature  
14 as well as those who participated in it. And  
15 I just wanted to get that on the record. And  
16 I hope that it's not setting the precedent for  
17 the kind of things we do in this legislature  
18 and in the committee meetings in the future.  
19 If we are going to have full-fledged,  
20 evidentiary hearings like I witnessed this  
21 morning, I would hope that the other side  
22 would be able to bring lawyers who know the  
23 relevance of the questions that are being  
24 asked and can object appropriately so that  
25 they aren't led down some kind of little alley



1           in criminal proceedings or other proceedings  
2           that can adversely affect them in their jobs.

3           SENATOR APODACA: Senator Nesbitt, would  
4           you like to say something?

5           SENATOR NESBITT: Thank you, Mr.  
6           Chairman. Just to expand on that a little  
7           bit, just to put in perspective what we saw  
8           here this morning -- I think it was Ms.  
9           Stanley. Was that the first lady's name?

10          SENATOR APODACA: Yes, it was.

11          SENATOR NESBITT: That's no difference  
12          than us -- than you making a mistake and us  
13          calling Ms. Gooden down here and putting her  
14          up there and grilling her for 45 minutes over  
15          a mistake that was made in your office.  
16          That's outrageous.

17          We would not tolerate it if they called  
18          us over to a court. We wouldn't tolerate it.  
19          And it's just unconscionable to just pounce on  
20          somebody's assistant who was doing her job the  
21          best she could. All this politics stuff is  
22          between us. And maybe, if we want to, we can  
23          pounce on Jim Trogdon or we can pounce on the  
24          secretary or the Governor; we're all in the  
25          game. But these people aren't.

1           And you know, we're sitting here. We  
2           have spent -- I patiently sat here for five or  
3           six hearings. There's nothing there. This  
4           whole thing started because the Senate budget  
5           killed these programs. It took the money out  
6           forever more. Not for one year, but forever  
7           more. And we were trying to get that part  
8           fixed, which was eventually fixed, I think.  
9           The House committee put it back in.

10           And when you run a budget, you don't have  
11           any subcommittees meeting, you don't have any  
12           input; and you rush it out here, and you're  
13           going to have us, the Governor's staff, and  
14           everybody else running around like chickens  
15           with their heads cut off trying to catch up  
16           with you. That's what happened here.

17           And I -- in my office, I trust Ms. Lee  
18           with -- with committee media things. You do  
19           it in your office, I'm sure. We all do down  
20           here. And you -- if we're looking to catch  
21           Ms. Gooden making one mistake and then  
22           pouncing on her for it, she ought to go find  
23           another job. It's just not -- it's just not  
24           proper. I kind of wanted to get that out.

25           I have listened to all this stuff and I

1           thought maybe there was some reason we had to  
2           do all this. But I don't think anything  
3           justifies what I had to sit here and watch  
4           this morning.

5           SENATOR APODACA: Okay. You had your  
6           say, and now I'll have mine. Senator Blue,  
7           number one, I have been here 10 years. I have  
8           never seen those events happen on the chamber  
9           floor. And by God, they will not happen  
10          again, or we'll crank it up and we'll go  
11          through it again.

12          Number two, if Ms. Gooden had done what  
13          that lady had done, she wouldn't be working  
14          for me, so let's get that straight right now.

15          SENATOR NESBITT: What did that lady do?

16          SENATOR APODACA: We'll talk about that  
17          tomorrow when we present our report, Senator  
18          Nesbitt. But pretty plainly, she signed a  
19          letter that wasn't authorized to be signed by  
20          the person's name she didn't sign. I mean,  
21          I'm not a lawyer; I'm just a normal person, as  
22          we say. But that doesn't work in my world.  
23          And I certainly hope it doesn't work in  
24          y'all's world. So we're going to end that  
25          there. We'll look forward to a spirited

1 debate tomorrow as we decide which course  
2 we're going on.

3 Let's bring forth House Bill 585. Who's  
4 bringing it up, Andrew? Is that your part?  
5 Senator Bingham? We got your part done.  
6 Mikael Gross, are you still here? Mikael,  
7 would you -- we had some questions on this  
8 bill about the alcohol piece and the  
9 permitting piece that y'all wanted to ask ALE.  
10 So we have ALE here.

11 MR. PERRY: Mr. Chairman, you have a new  
12 PCS.

13 SENATOR APODACA: Okay. Senator Brock  
14 puts forth a new PCS, moves for its adoption  
15 and discussion. All in favor, say, "Aye."

16 (Voice Vote.)

17 SENATOR APODACA: Opposed? Okay. The  
18 PCS is before us. Giles, if you will give us  
19 a little rundown on the difference between  
20 what we had yesterday and what we have today.

21 MR. PERRY: Yes, sir, Mr. Chairman. The  
22 PCS today adds Section 3 and Section 4, and  
23 changes the effective date.

24 SENATOR APODACA: Okay. Any questions on  
25 the PCS? I'll give you a chance to look it

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1 over. Mr. Gross, I assume you're in favor of  
2 this bill?

3 MR. GROSS: Yes, sir. And the department  
4 stands behind it.

5 SENATOR APODACA: Okay. Okay. Any  
6 questions? I have a motion for favorable  
7 report to the proposed committee substitute by  
8 Senator Brown. Any discussion or debate. All  
9 in favor, say, "Aye."

10 (Voice vote.)

11 SENATOR APODACA: Opposed, "No." So  
12 passed.

13 Mr. Gross, we'll get you here more often.  
14 Next bill we're going to take up is  
15 Senate Bill 847.

16 MS. GOODEN: It's on the way.

17 SENATOR APODACA: Okay. Let's move on.  
18 We're waiting for that.

19 Representative Daughtry. I'm going to do  
20 Representative Daughtry first. House Bill  
21 1023, Expunction/Nonviolent Offenses.

22 REPRESENTATIVE DAUGHTRY: Thank you, Mr.  
23 Chairman, thank you, Representatives. Let me  
24 say, first of all, I love the Senate. I have  
25 always loved the Senate. I was in the Senate

1           until I was asked to leave, and I would be  
2           here today if I hadn't been redistricted. I  
3           love all of you.

4           And I have got a bill that has been in  
5           the making for 12 years that has to do with  
6           expunction of felony of nonviolent crimes.  
7           It's supported by the Church Association and  
8           it gives someone a second chance --

9           SENATOR MANSFIELD: We don't have the  
10          bill.

11          MS. GOODEN: It should be coming around.

12          REPRESENTATIVE DAUGHTRY: It gives  
13          someone a second chance. It takes 15 years  
14          before you're able to file a petition with the  
15          court to have the felony expunged. You have  
16          to have -- in addition to that, you have to  
17          pay all of the restitution that was involved  
18          in the crime, you have to have two people who  
19          are out of your family who will sign an  
20          affidavit saying you have good, moral  
21          character, you have a hearing before the  
22          judge. The judge still can, if he chooses to,  
23          not allow the expunction.

24          Every single safeguard we can think of is  
25          in the bill, and it has wide support, I

1 believe, among all groups, including law  
2 enforcement.

3 SENATOR NESBITT: Mr. Chairman?

4 SENATOR APODACA: Yes, sir. Senator  
5 Nesbitt.

6 SENATOR NESBITT: I move to give  
7 favorable report.

8 SENATOR APODACA: Okay. I'll hold that.  
9 Let's have some discussion. Senator Blue.

10 SENATOR BLUE: I just wanted to tell  
11 Representative Daughtry we love him, too.

12 SENATOR APODACA: Do you love him more  
13 since he's in the Senate -- I mean, in the  
14 House, and you're in the Senate?

15 SENATOR BLUE: When I was over there with  
16 him, I loved him, as well.

17 SENATOR APODACA: Okay. I have a motion  
18 for favorable report by Senator Nesbitt. Any  
19 further discussion or debate?

20 SENATOR NEWTON: I have a question.

21 SENATOR APODACA: Senator Newton.

22 SENATOR NEWTON: How many -- the  
23 expungement laws, Representative Daughtry, as  
24 you know -- and I know that's why you're  
25 working on this bill -- is kind of all over

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1           the place. We have a lot of different  
2           expungement bills. One in particular I know,  
3           that you're only eligible for one in your  
4           lifetime. And you may have said it. If you  
5           did, I apologize. Are you eligible for this  
6           procedure more than once?

7           REPRESENTATIVE DAUGHTRY: Only once.

8           SENATOR NEWTON: Only one time?

9           REPRESENTATIVE DAUGHTRY: Yes, sir.

10          SENATOR APODACA: Any further questions?

11          All in favor of House Bill 1023, signify by  
12          saying, "Aye."

13          (Voice vote.)

14          SENATOR APODACA: Opposed, "No."

15          REPRESENTATIVE DAUGHTRY: Thank you, Mr.  
16          Chairman. Always good to see you.

17          SENATOR APODACA: Okay. Are we ready to  
18          go with 847? Who's going to explain that?  
19          Senator Hartsell. I think we have a proposed  
20          committee substitute. Senator Brock moves we  
21          bring it before us.

22          SENATOR MEREDITH: Mr. Chairman?

23          SENATOR APODACA: Yes, sir.

24          SENATOR MEREDITH: I have an amendment.

25          SENATOR APODACA: Hang on. Senator Brock



1 moves we bring the PCS before us for  
2 discussion. All in favor, say, "Aye."

3 (Voice vote.)

4 SENATOR APODACA: Any opposed? All  
5 right. We have it before us. Senator  
6 Hartsell?

7 SENATOR HARTSELL: Thank you, Mr.  
8 Chairman. Let me -- you should be getting  
9 several sheets of paper, members of the  
10 committee. You have the PCS, then you have  
11 a -- and the PCS itself is broken down into  
12 several areas. The areas are the following:

13 The first section, subsection, comes from  
14 the general statutes commission itself and are  
15 about the most boring pieces of legislation  
16 you'll ever come across.

17 The second section is what we tried to  
18 categorize as purely technical changes, the  
19 kind of things that involves statutory  
20 citations and just misstatements or just, you  
21 know, the purely technical matters. That's --  
22 the general statute sections are Sections 1  
23 through 44, on -- that are Pages 1 through 25  
24 of the bill. The purely technical matters  
25 that we deemed -- we tried to come up with a

1 consensus. These are truly, absolutely as  
2 technical as they get. Sections 45 through  
3 56, Pages 25 through 28.

4 Then we have Section 57 through 63, which  
5 are what we would call close to technical, but  
6 not really. They're more clarifying or  
7 provisions that would create conformity to  
8 other matters, other circumstances, the kinds  
9 of things that are just trying to straighten  
10 things out that might have been going back and  
11 saying something was left out in the bill that  
12 got passed before when it was inadvertently  
13 done.

14 And then, finally, Sections 64 through  
15 70, which are on Pages 31 through 34, are --  
16 hopefully they are substantive changes. I  
17 will acknowledge that they are substantiative,  
18 but they are substantiative in the context  
19 of --

20 SENATOR APODACA: Excuse me, Senator  
21 Hartsell. Let's quiet it down, please. We  
22 can't hear up here, so I know you can't hear  
23 back there. Thank you.

24 SENATOR HARTSELL: Okay. There are  
25 substantiative changes, but more in the nature

1 of the kind of things, again, that -- they are  
2 more than clarifying, but they are designed to  
3 be noncontroversial. That is always in  
4 someone's own mind and we want you to go  
5 through those carefully.

6 You should also have with you a two-page  
7 sheet that's been distributed. It looks like  
8 this. That is the form of an explanation  
9 of -- you should have, of course, the General  
10 Statutes explanation, which is lengthy and  
11 very detailed for that section.

12 And then, you should have a two-page  
13 sheet that goes through the other remaining  
14 sections that are purely technical sections.  
15 Then separating out the clarifying sections,  
16 and then the substantive sections to give you  
17 some kind of explanation for what they are.

18 And I think that in -- so with that, Mr.

19 Chairman, I mean I have --

20 SENATOR APODACA: Go ahead.

21 SENATOR HARTSELL: There are -- there is  
22 an amendment -- where's four? There are a  
23 couple of amendments that we have learned that  
24 need to be -- they are technical amendments to  
25 the technical bill.

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1           SENATOR APODACA: Oh, boy.

2           SENATOR HARTSELL: Let me -- Senator, we  
3 put this together last night, but we're doing  
4 the best we can. The first needs to be --  
5 this one is nauseatingly technical.

6           SENATOR APODACA: All right. Let's pass  
7 these out. Give them a moment. We'll talk  
8 about this -- this is very short, while  
9 they're passing it out.

10           Senator Hartsell moves to amend the bill  
11 on Page 30, Line 31, by rewriting the line to  
12 read, "(7), Linking people to needed personal  
13 healthcare services and ensuring the."

14           SENATOR HARTSELL: It changes the word  
15 "assuring" to "ensuring." That's all it does.  
16 I move its adoption, Mr. Chairman.

17           SENATOR APODACA: Any discussion on this  
18 controversial amendment? I'm rather surprised  
19 that it wasn't spelled correctly to be signed  
20 to begin with, but we'll leave that where it  
21 is. Okay.

22           We have this amendment before us. All in  
23 favor, say, "Aye."

24           (Voice vote.)

25           SENATOR APODACA: Opposed, "No." The

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1 amendment passes.

2 SENATOR HARTSELL: There's a second one.

3 SENATOR APODACA: Do we have copies?,

4 SENATOR HARTSELL: This one is lengthy,  
5 but it's really not --

6 SENATOR APODACA: Okay. Senator Hartsell  
7 sends forth another amendment. We're going to  
8 pass this out. And we'll talk about it once  
9 you have it. It will be V.2. Everybody have  
10 a copy of it? Okay. Senator Hartsell,  
11 explain the amendment please.

12 SENATOR HARTSELL: The easiest way to  
13 explain it, Mr. Chair, is if everyone will go  
14 to your bill explanation on Section 58. This  
15 is a -- an amendment to Section 58. Section  
16 58 is a provision which clarifies  
17 circumstances under which guardian ad litem  
18 may be named or appointed or served in the  
19 context of local management entities.

20 58 was an amendment to House -- to House  
21 Bill 1075. I mean, it was just a very  
22 technical amendment, House Bill 1075. So that  
23 one section such that the -- it identifies the  
24 individuals and folks and families and that  
25 sort of thing. Mr. Parker is here.

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1           What this does is say -- and in the bill  
2           -- in the bill it says, "If House Bill 1075  
3           passes, then it's amended in this fashion."  
4           What this amendment does is say, "If House  
5           Bill 1075 does not pass, we incorporate this  
6           section that would have been in there as  
7           amended to that -- in that circumstance."

8           Because we have a fairly significant  
9           issue associated with the appointment of  
10          guardians ad litem. I don't believe -- we're  
11          just trying to cover the bases. If it passes,  
12          you have one. If it doesn't pass, you have  
13          another.

14          SENATOR APODACA: Okie dokie. Questions  
15          from the committee, please, on the amendment  
16          right now?

17          SENATOR NESBITT: Do we have a copy of  
18          this amendment?

19          SENATOR APODACA: Yes, V.2, Senator  
20          Nesbitt.

21          SENATOR NESBITT: Is this it?

22          SENATOR APODACA: No. It should be about  
23          four pages long. Three pages.

24          (Whereupon, the Court Reporter was excused and  
25          ceased reporting of the proceedings.)

1 State of North Carolina )

2 County of Wake )

3

4 I, Sarah A. Bowers, a Notary Public of the State

5

6 of North Carolina, County of Wake, do hereby certify

7

8 that I was authorized to and did stenographically report

9

10 the foregoing proceedings and that the transcript is a

11

12 true and complete record of my stenographic notes.

13

14 As witnessed by my hand this 8th day of July,

15

16 2012.

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Sarah A. Bowers

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24

Notary Public No. 200620500044

25

**CONTINUATION OF THE SENATE RULES COMMITTEE FROM JUNE 27, 2012:**

**This is page 74 following the last page of the Transcript of the Proceedings.**

**SENATE BILL – 847 – GSC TECHNICAL CORRECTIONS/OTHER CHANGES** – Senator Brock moved the adoption of the Proposed Committee Substitute. Motion carried. Senator Hartsell explained the bill after which, he sent forth an amendment and moved for adoption. Motion carried. Senator Hartsell sent forward amendment #2 and moved for adoption. Motion carried. Senator Rabon sent forth an amendment and moved for adoption. He then withdrew the amendment. Senator Brown moved for a favorable report to the Proposed Committee Substitute as amended. Motion carried.

**HOUSE BILL – 953 – ENVIRONMENTAL TECHNICAL CORRECTIONS 2012** – Representative Gillespie explained the bill. Senator Brown sent forth an amendment and moved for adoption. A hand vote was taken and the amendment was adopted. Senator Rabon then sent forth an amendment. Senator Jackson moved for adoption. Motion carried. Senator Jackson then moved for a favorable report as amended. Motion carried.

**HOUSE BILL – 799 – LICENSURE BY ENDORSEMENT/MILITARY/SPOUSES** – Representative Nesbitt explained the bill. Senator Brown sent forth an amendment and moved for adoption. Motion carried. Senator Brock moved for a favorable report as amended.

**HOUSE BILL – 837 – COMPLETION OF CPR BY STUDENTS REQUIRED** – Senator Brock moved to adopt the Proposed Committee Substitute: Motion carried. Representative Carney explained the bill and Senator Hartsell moved for a favorable report to the Proposed Committee Substitute. Motion carried.

**HOUSE BILL – 914 – AEDs IN STATE BUILDINGS** – Senator Rabon moved the adoption of the Proposed Committee Substitute. Motion carried. Senator Brock sent forth an amendment and moved for adoption. After debate, Senator Brock withdrew the amendment. Senator then moved for a favor report to the Proposed Committee Substitute. Motion carried.

**HOUSE BILL – 1085 – STATE HEALTH PLAN/STATUTORY CHANGES. – AB** - Representative Dollar explained the bill. Senator Hartsell moved for a favorable report. Motion carried.

**HOUSE BILL – 457 – MUNICIPAL ELECTRIC UTILITIES/RATE HEARING** – Senator Newton moved the adoption of the Proposed Committee Substitute. Motion carried. Representative Collins explained the bill. Senator Newton moved for a favorable report to the Proposed Committee Substitute. Motion carried.

**HOUSE BILL – 572 – ACCOUNTABILITY FOR PUBLICLY FUNDED NONPROFITS.** – Representative Justice explained the bill. Senator Rabon sent forth an amendment and moved for adoption. Motion carried. Senator Hartsell moved for a favorable report as amended. Motion carried.

**HOUSE BILL – 1105 – MODIFY TAXATION OF HOA PROPERTY** – Representative Justice explained the bill. Senator Newton moved for a favorable report. Motion carried.

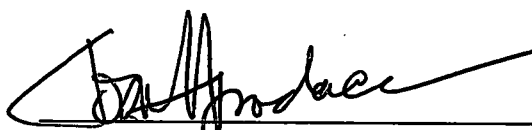


**HOUSE BILL – 494 – CONTINUOUS ALCOHOL MONITORING LAW CHANGES** - Senator Brown moved to adopt the Proposed Committee Substitute. Motion carried. Representative Moore explained the bill. Senator Kinnaird moved for a favorable report to the Proposed Committee Substitute. Motion carried.

**HOUSE BILL – 144 – MOTORCYCLE INSURANCE DISCOUNT/MILITARY** – Senator Brown explained the bill. Senator Mansfield moved for a favorable report. Motion carried.

**HOUSE BILL – 1173 – ABSCONDING PROB. VIOLATORS FORFEIT BENEFITS** – Representative Saine explained the bill. The Chairman said the bill would be heard in the Thursday meeting.

The meeting adjourned at 12:30 p.m.



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Senator Tom Abodaca, Chairman



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Carolyn M. Godden, Committee Clerk

Senator Stein: You're asking that this be dragged on to look what the intent was, whether there was intent to mislead. The only parties that were to the edit of that letter have all testified at length yesterday under fairly intense examination and we know from the two employees at D.O.T. that D.O.T. did not feel any pressure other than by the time, did not feel any threats from the Governor's office, they didn't feel any threats from to their employment, they were just trying to be responsive to the General Assembly which is what usually we expect from the Executive Branch when we are in session. So we know what their frame of mind was, we heard testimony from Mr. McLaughlin and Mr. Gibson that they thought they were clarifying what was in the letter, that litigation can be resolved. First of all, the litigation hasn't even been filed and had it been filed it could have been resolved and so they were just pointing out that possibility; which we've all come to learn, you draft the letter, you share it with somebody else, they have an idea, they send it back, then you say 'Wait, that's not right' by the way I caught another point that you made elsewhere that I don't agree with and you pass it back and forth. The only thing that happened is the unfortunate circumstance that Mr. Trogdon was unavailable. Had he been available everyone would have called him and said, 'Do you think this change is okay?' We know what the intent was, why we want to continue this process is beyond me.

Senator Rabon: Thank you Mr. Chairman and thank you for your efforts in this committee and efforts in looking into this. I hope this is germane. Unless one is familiar with the history and background of this issue or this project it's difficult to fully understand why people would go to such extreme measures to ensure that these projects are kept in statute and that reason is had this moved forward, or should it move forward, potentially the tax payers and Department of Transportation of this State can give us a whoopin' because it's a \$1.3 billion dollar project, that's a lot of money and a lot of people can gain from that. I hope the Ethics Committee will look into the history and to see why people are willing to do such extreme things. Because the reason is money, folks. And I hope they look back and they wonder that and they see... {inaudible}... Department, and that this is a mistake. And hope they will abolish this type of behavior.

Senator Stein: Mr. President and Senator Rabon, if money was the cause of this then you are alleging that this letter was modified for someone's financial gain or benefit?

Senator Rabon: I think had this gone forward and keeping these projects in, the issue here is basically certain projects stay in statute and certain projects come out of statute. Knowing what this year's budget was going to do it put some people in fear that they might down the road have potential personal loss. Not this year, not this budget, potentially in another budget. I truly believe that. I could be wrong, but I believe that.

Senator Mansfield: I am by no means a lawyer but seems like- and I when I first looked at this I was angry and upset because this is bad government. Everyone knows I am here for good government. But then we had the hearing and I kept looking for the smoking gun and when Mrs. Stanley said 'It's my fault' I thought, at least for me she kept saying over and over 'It's my fault, no one coerced me, no one pushed me, no one nudged me, no one sent me a text message, there was no secret guy at the table telling me what to do, it's totally my fault' then when the young lady after her came and said 'Hey it's our fault, no one pushed us.' That's when I thought there is no smoking gun. Do I think it was in the best

interest of the State, probably not. Do I think the way they went about it, probably not. Do I think there were malicious reasons for her to do it to make sure some other folks got money, I don't believe that either. Unless there's some evidence that someone else has that wasn't given yesterday or the day before or last week I just don't see the smoking gun. I don't like what happened, but at this point I almost have to believe it was sloppiness, people not paying attention to detail more so than I think there is some malicious reason. I am not sure this needs to be held {inaudible} and turned into an ethics complaint when I think everyone in this room now, it's hard for us to say that this was done maliciously. Was it the way I would have done it in my office? No. I do have some questions, I have to admit. I gotta say that if I guy says this policy decision and then out of the same office a different policy position, then I get that. But then when his administrative aide comes in says 'It's my fault, you can't blame anybody else but me.' I just don't see the smoking gun.

Senator Newton: Inquiry of the Chair if I could Mr. Chairman?

Senator Apodaca: Sure.

Senator Newton: The motion before us is to refer it to the State Ethics Commission, is that right?

Senator Apodaca: Correct.

Senator Newton: We are not talking about the Ethics Committee that we have here in the Legislative Body, right?

Senator Apodaca: Right, State Ethics Commission.

Senator Newton: If I could... I appreciate what Senator Mansfield says and also Senator Stein. I didn't enjoy questioning these ladies yesterday, and I don't think that they did anything wrong. Personally, I don't think they did anything wrong and quite honestly I don't think they should be taking the blame. I think it's quite admirable and humble of them to suggest that it was their fault. I never heard them say, and I don't have the transcript in front of me, but I don't recall anybody saying 'Can't blame anybody but me.' But they clearly took a lot of responsibility that I really don't think fell on them. Mr. Pryor is a former legislator. Mr. Pryor knows how this body operates. He's been around here a lot longer than me. Mr. Pryor knew exactly what he was doing, in my belief. He knew exactly what the policy was. Now why he wanted to do it, I don't know. I'm not going to say it was because of money or something like that. I don't know why he did it. But in my belief he knew exactly what he doing. And I believe that is highly deserving of a referral to the Ethics Commission. I have no idea about the Ethics Commission, whether they can try and review this, whether there is anything sanctional they can do, I'm not sure because I am not on that Commission and I haven't studied their rules. Perhaps we should look at what their authority is and see {inaudible} because I want to echo what the chairman said, I don't care who's administration it is, I don't care what agency it is, I don't care what interest group it is—if someone knowingly tries to pull a hoax on this institution in a serious debate like that, that challenges all of us, not just as individuals. That challenges our state. This is about this institution. This is about this General Assembly. And we should not tolerate it. And if that is what Pryor Gibson did, and I'm saying it, if that's what he did, I'll leave it to the Commission and I'll follow whatever they say. If that's what he did, everybody in

this room and everybody in this body ought to at least decide in their own mind that they will not tolerate it because if the McCrory administration does that to me, I am going to call them on it. And I thought a lot about this inquiry before we did it, I prayed about it a lot, because I did not want to put a spotlight on these ladies because going into it I didn't think they did anything wrong. I think they were used. And I think we ought to send it to the Commission to have them determine exactly who and why and whether they were used.

Senator Mansfield: I share Senator Newton's passion. And I honestly believe that everything he just said he honestly believes. But the Chair said we were going to go where the facts lead, and again I'm not an attorney, but the facts in this case—you cannot prove any of the stuff that Senator Newton just said about Mr. Gibson. I'm not here to defend Mr. Gibson. If this happened in my office personally you wouldn't be there. That's honest. However, since we're here in this governing body do the facts lead us to where we suppose, we think, we might have—those facts are not there. No one said this guy walked in our office and had us to do this to make sure there was a policy change or a hoax or a fabrication, or will be given the ability to use this argument on the Senate floor. Could he have had those intentions? Certainly. Can we prove them? No. Does it look like he did some sloppy work? Yes. Am I proud of that? No. Am I proud of what happened on the Senate Floor {inaudible}? No. Not at all. But are the facts, and this is what I keep going back to, do the facts lead us there, can we put on a table: step 1, step 2, step 3, step 4; that leads us to say well this guy maliciously with intent went to that office, change this letter, had her change the letter, and affix a signature on it to get X gain out of it. I don't see it. If Senator Rabon or Senator Newton or Senator Apodaca can walk through those steps with me I'm there with you, and I'll support what you say, but right now I don't see those facts.

Senator Apodaca: Senator Mansfield, I think you bring up a very valid point. And I think this is exactly why we make the recommendation that we are making. It goes to the Ethics Commission and not to {inaudible}. I don't see the criminal intent but I certainly see ethical issues at play here and I think if you think through it enough you'll see those at play here too. So I think our best course of action is the Ethics Commission and not law enforcement. That's my belief. And I think that's a great plan. Senator Nesbitt?

Senator Nesbitt: Thank you Mr. Chairman. I've tried on this before and it's gotten pretty short shifted here but if you look at this whole situation it's had absolutely no effect on this General Assembly, no effect on debate. Mr. Trogden's original letter said we don't need the money this year but we need it in future years. What our budget did was kill it in future years. The budget went against what Mr. Trogden said to start with. The amendment that was offered on the floor said take it out this year like Mr. Trogden said we didn't need, but put it back in for future years. Now the chair has told me that it was a bad project and it should be killed. That's what he was trying to do. That went against both letters. And when you get into a situation where you've got no harm, no foul and the letter was actually off point because on the Senate Floor I've asked, I think the amendment is in the evidence, I've asked for it to be brought 4 or 5 times, the amendment would have left the money out for the first year. It did not rely on that second letter, wasn't used, and had something caused us to do something that costs the taxpayers money or something like that, you've got a little more course {inaudible}, but I'm gonna tell you something, we spend, go in there and all that that paper on my desk. All we do is go through paper trying to figure out where the truth is. If you think everything somebody hands you is true you need a

remedial class. Their advocating, their pushing their agenda's, their doing what they think they need to do. If you think every time somebody stands up on the floor of the Senate to tell you something is the truth, you're missing somethin'. It's their opinion. And that's all we have here. That's all we have. When we listen to everybody, I wish we'd heard again from Mr. Trogden because I think he would have confirmed that he intended to start these projects if the litigation was not there but he just didn't have enough money to do it with {inaudible}. And he would have told you that. These people said if the litigation doesn't occur we need to start the project, same thing. Just in a different way. The truth of the matter is we were willing to conceive {inaudible} don't put the money in but don't take these things out to kill them. When you take a future statutory commitment of gap funding out of the budget, out of the statutes, you kill the project. And everybody knows there's a little deception there because everybody was saying oh you can put it back in. Well, when you don't commit to that gap funding for future years nobody will {inaudible} the bonds and that is what was killing the project. That's what everybody was trying to get over here. I think on behalf of Senator White there was some feeling among us that people were using Mr. Trogden to write a letter to say that D.O.T wasn't for the project, that's why he was asking for help; To show they were in fact in support of the project because our budget killed it. That's the deal. We can double down and double down and double down but that's where we are.

Senator Apodaca: In comment to that, I reviewed the transcript of the floor discussion and it is my opinion in that transcript that is was plainly referred to letter delivered that morning when Senator White stood up and spoke. So I think it is pretty clearly within the transcript. I was not there; I was out of town so I helped build this from the ground up. Item 2: we're not here to discuss the policy of the issue. We are here to discuss why, and I'm just going to call it a fictitious letter appeared on floor of the Senate with only two or three folks and was testified to during the debate on an amendment for a bill, and then that afternoon we get another letter saying 'Oh my god that letter that went out this morning was not under my signature and not my thought and opinion.' I want to keep focus on what we're dealing with here and that's solely what we are dealing with here. We are not going to get into the policy issues, we're not going to try change the debate in the Senate.

Senator Nesbitt: Mr. Chairman?

Senator Apodaca: Yes sir?

Senator Nesbitt: Just for the record, do you acknowledge that the amendment that was offered did not ask to put the money back in on the first year?

Senator Apodaca: That's what the amendment... like I said, I reviewed the amendment, but I wasn't there.

Senator Nesbitt: The amendment speaks for itself.

Senator Apodaca: Then if that is what it says, that is what it says. I don't remember exactly. There's a lot of paper on my desk also. But when I'm on the floor of the senate, I kind of count on when I get something from an agency that it is going to be true.

Senator Nesbitt: Are you speaking to what Senator White did or didn't do?

Senator Apodaca: I'm going by I've read on the transcript of the debate within the Senate. I think it's fairly clear. The reference was made. Further discussion or debate? Senator Brock?

Senator Brock: Thank you Mr. Chairman. {Inaudible} Senator Nesbitt you are talking about original letter used {inaudible} contradict that letter, even when the questions were asked yesterday {Inaudible}. Said they did not know what the major policy was, they might have said that but their body language was a lot different and the way they reacted to that. And then talking about their conduct and the way they did their jobs wasn't {inaudible}. They knew that they could get the process done by 11 o'clock before session—that was the deadline. {Inaudible} If this was such an issue and they knew General Trogden was on maneuvers in Charlotte... that's time you can't make up. That's time you have to wait until he gets back or can contact him for that information. {Inaudible} Beginning with our question if this is a forgery because the timeline is when General Trogden was there and looking at the direct chain of letters, the original letters.... {inaudible} And then when we have a change that was used on the floor during debate, it was contradictory to the original letter. That was something, if there was going to be a change then we should have {inaudible}. Something that is generally agreed upon should not have a direct contradiction from what was in the letter. We look at the, saying there was no {inaudible} under the desk on secretary that changed the letter, there were phone calls and then there was personal, physical visit by the Administration about this letter. They were in the room. And when you have someone who is a high ranking official standing over your head you will change the letter. I think that is it. It's not someone under the desk; it's someone over the desk. I think that's something {inaudible}.... I need this letter by 11 o'clock. Here is a good state worker, doing their job, a very good job, and you have a high ranking official standing over you saying I need this letter by 11 o'clock. Those are questions I think should be answered by the Ethics Commission. I don't think there is criminal behavior but there are ethical questions {inaudible}. When we have documentation from someone that is well respected, General Trogden, {inaudible} that we see this is something that {inaudible} if he says something it's golden, it's true. {Inaudible}.

Senator Apodaca: Senator Blue?

Senator Blue: Yes, I have some concern with wording yesterday {inaudible} pretty serious charges, there is no forgery here. I don't know {inaudible}. This signature that was affixed to this letter was authorized to be affixed.

Senator Apodaca: By the person, General Trogden authorized that letter to be signed?

Senator Blue: Yes sir. He authorized somebody to affix his electronic signature by saying work it out with the Secretary or Deputy Secretary and {inaudible} the process. That is what you need to address if you're concerned about how this came about. He leaves his electronic signature and he leaves this person with the authority to sign his name. He has not said anybody forged his name I hear that term going around and someone or another said this is a criminal act. He authorized his secretary, his assistant, to sign his name to documents when he was out of the office.

Senator Apodaca: That particular document?

Senator Blue: It doesn't have to be that particular document.

Senator Apodaca: That's what we're concerned with, not other documents.

Senator Blue: I'm saying the process is that he authorized {inaudible}. He authorized his Deputy Secretary to finish negotiations and she said she did and she was going to sign it. {Inaudible} And she was going to sign her name for him.

Senator Apodaca: Let me ask you this Senator Blue, while we're talking, why did he issue that other letter that afternoon saying he had not authorized?

Senator Blue: Because it had a mistake on it. I don't know if you have ever rescinded a letter out that had a mistake on it.

Senator Apodaca: No I haven't Senator Blue.

Senator Blue: I don't know what is so unusual about this. It was a mistake. {Inaudible}. That's what happened here. Going on with your course of business, whether in the public or private sector. People make mistakes. And sometimes it says things that they did not intend for it to mean. And they retract their statements. {Inaudible} The other point I think is important is that if it's been referred to the ethics committee, I'm trying to figure out what the ethics inquiry is? Whether the ethics inquiry is against General Trogden for authorizing his signature {inaudible} or whether it's against these ladies in the department, the two witnesses that testified or whether it was aimed at Pryor Gibson or whether it was against Kevin McLaughlin who thoroughly explained how he tried to word it {inaudible}. I'm just puzzled as to what the ethics inquiry is? And whether that inquiry is intended to go after the legislators who make requests of {inaudible} in the critical hours when things are being considered because we have procedures for that to happen too. So whether you are sweeping them up in this since they requested it as well as sweeping any other legislator up who requested information around that period.

Senator Apodaca: Sure, that is why we are trying to hone in on this one letter. We want answers on this one letter. We are not opening it up to the whole problem.

Senator Blue: Are you asking that there be legislative efforts to make an investigation {inaudible} ?

Senator Apodaca: I didn't say that. This is going to the Ethics Commission. And they need to review this and they can refer it where ever they like or they can do away with it.

Senator Blue: We have a separate group of legislative conduct {inaudible}

Senator Apodaca: So you think I, do you want me to send this, do you want me to send Senator White and maybe Rep. Current sent to that legislative ethics {inaudible}?

Senator Blue: I didn't say that. I'm asking you what your intention is.

Senator Apodaca: I think I was pretty clear on my intentions Senator Blue. I want this to go the Ethics Commission for review around the circumstances.

Senator Blue: These five people {inaudible} plus two people from the Governor's office....

Senator Apodaca: And let them see what they believe happened. That's why they're there. Senator Mansfield?

Senator Mansfield: I want to speak to something that Senator Brock was saying. Both of those young ladies came here yesterday, and I'm not saying Senator Newton enjoyed doing it but, three or four times you asked them five or six different ways what did you intend {inaudible}. Everyone in here knew what he was trying to get at. Every time she said, 'No it was me. No. No. No.' So it is your assertion now that those ladies came in here and hide or tried to hide or took the blame for something they didn't do? If you are making that assertion, do you have evidence to that point?

Senator Brock: No, what I was saying was that when the questions were coming in that they are professionals doing their jobs. Professionals do their job. {Inaudible} They knew it was, I don't want to say, unethical but this is something they didn't have the full {inaudible} of walking back in and they didn't know that we were going in to discuss the budget at 11am that morning. Pardon me Mr. Chairman, may I respond?

Senator Apodaca: Yes, please, go ahead.

Senator Brock: I think that was part of it. They were doing their job as a professional. When you are asked to do something {inaudible}. When you have a person that is standing over you saying you need to do something {inaudible} I don't think they did it intentionally. {inaudible} Looking for the change from one letter to another. And why it was done that morning before the budget negotiation and not the morning before when General Trogden was here. When was the call made? That's my question {inaudible} Why are we trying to cover up that issue? Let the Ethics Commission decide {inaudible}.

Senator Apodaca: Go ahead Senator Mansfield. One more time.

Senator Mansfield: I apologize

Senator Apodaca: No problem, please go ahead.

Senator Mansfield: Seems like your entire case Senator Brock is based on the idea that Pryor Gibson coerced these people to do something to force them to do what they did. And then based on what the Chairman said we are going to let the facts lead us to where we need to go there's not a single person that came in here any day we've been in here that's ever said that. Not one. There was ample opportunity in a room of people {inaudible} and I believe had any one of those people even nudged or blinked or said anything like I felt like I was coerced or I felt like I was pushed everyone in this committee would have stood up and brought Pryor back in here. {Inaudible} I felt like everyone in here wanted to touch these ladies and said hey we know you did a good job {inaudible} and in every opportunity they had to say that, they never said that. So that's why I keep going around these same lines that we really



have no evidence of any of the things... I mean it's great (inaudible), I mean could this have happened, sure. Was it possible that it happened, sure. Do we have any evidence that it happened, none. That's my conflict here that we have no evidence to prove any of these stuff you just said.

Senator Brock: What I'm meaning is that they are professionals, they came in and the request was made, and they know they changed the letter as requested, that is what they said they were guilty of, they changed the letter. That is what I meant. (inaudible) Seeing that there was hesitation or some type of reaction, I believe Mrs. Coward said she took the rest of the day off, and that was something that showed me there was a question in her mind about something that happened.

Senator Mansfield: You don't think she was just mad because she made a mistake? She embarrassed her department. You don't think that's why she did it? I got the feeling....

Senator Apodaca: Okay, that's good... Senator Newton?

Senator Newton: Thank you Mr. Chairman. With all due respect to my two colleagues, I think we're missing the point here. I didn't take this exercise we've done in the Rules Committee to be a trial. I took it to be an inquiry; to develop, open up, let's see what's here. Let's see if there's anything we need to take action on and I think that's exactly what we've done. And I think we've got before us very good, clear star evidence that we should take some action, that we should make a referral to the State Ethics Commission. And I think I find it interesting that Senator Blue didn't really mention Pryor Gibson in the question about Senator White and Representative Current and the ladies and General Trogden, and maybe the process is part of the question. But I think it's pretty well developed and pretty well clear at least in my mind and the questions that I got answered, (inaudible) like I said before Pryor Gibson knew exactly what he was doing and Pryor Gibson took advantage of the process that exists probably in multiple agencies to electronically affix a signature. That's what I think. I think, I think that does not strain credibility to think that that is a very likely thing to happen. In my scale of more likely than not, it clearly tilts to more likely that that's what he was doing because he knows what he's doing. And I think that's where ethical questions come into play. And that's why I think the State Ethics Commission ought to try the case and investigate the case professionally because there are other people that ask questions of, there other people that need follow up questions of. That really shouldn't be our role. We've developed it enough, it's time for us to say it's not on us anymore; it's on to somebody else. I'll say this last thing I haven't spoken to Senator White about this so I don't know what he thinks but I've put myself in his shoes. I've got a problem with something going on in the legislature and about to have a debate on the floor, I've got a problem. I need some help from an agency, help me with my problem. I make a request, 'Hey can you guys give me the information that says no that's not really what we need to do.' And then I take that information relying on the signature like of General Trogden and I go on the Senate Floor and I speak to my colleagues and I say, 'Trust me on this, General Trogden says yes.' And I find out later on that that was manipulated and put on there when General Trogden is off on exercises, I'd be mad as hell.

Senator Apodaca: Senate Stein? Last question. No, okay. Senator Blue.

Senator Blue: Mr. President , as legislators individually we could report this to the State Ethics Commission {inaudible} and they then investigate?

Senator Apodaca: Sure, I guess they could. That's how it goes. This is going to come from the committee.

Senator Blue: I just wanted to understand. {inaudible} Thank you. .

Senator Apodaca: Okay, we have a motion on the table that we refer this matter to the State Ethics Commission. All in favor say raise your hand. All against. It passes. Okay we are going to take a ten minute break and get cranked up on bills at 10'clock. Thank you.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 585  
Committee Substitute Favorable 5/12/11  
Senate Commerce Committee Substitute Adopted 6/14/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H585-PCS30658-RW-86

Short Title: Alcohol Sales / Vehicle Emissions Inspections.

(Public)

Sponsors:

Referred to:

April 5, 2011

A BILL TO BE ENTITLED

1 AN ACT (1) TO MODIFY PROVISIONS RELATED TO THE SALES OF ALCOHOLIC  
2 BEVERAGES, (2) TO EXEMPT VEHICLES OF THE THREE NEWEST MODEL  
3 YEARS AND WITH LESS THAN EIGHTY THOUSAND MILES FROM EMISSIONS  
4 INSPECTIONS, (3) TO PROVIDE FOR CONFORMING CHANGES TO WHO MAY  
5 SUPERVISE THE STATE HIGHWAY PATROL PURSUANT TO THE  
6 CONSOLIDATION OF THE DEPARTMENT OF PUBLIC SAFETY, AND (4) TO  
7 EXEMPT LAW ENFORCEMENT, FIRE, EMERGENCY SERVICE, AND INMATE  
8 AND JUVENILE TRANSPORTATION VEHICLES OWNED BY THE DEPARTMENT  
9 OF PUBLIC SAFETY FROM DEPARTMENT OF ADMINISTRATION MOTOR FLEET  
10 MANAGEMENT.  
11

12 The General Assembly of North Carolina enacts:

13 SECTION 1.(a) G.S. 18B-101(7b) reads as rewritten:

14 "(7b) "Historic ABC establishment" means a restaurant or hotel that meets all of  
15 the following requirements:

- 16 a. Is on the national register of historic places or located within a State  
17 historic ~~district~~district; is a contributing structure in a National  
18 Register Historic District; or is under protective covenants or a  
19 historic preservation agreement administered by the Historic  
20 Preservation Foundation of North Carolina, Inc.  
21 b. Is a property designed to attract local, State, national, and  
22 international tourists located on a State Route (SR) and with a  
23 property line located within 1.5 miles of the intersection of a  
24 designated North Carolina scenic byway as defined in  
25 G.S. 136-18(31).  
26 c. Is located within 15 miles of a national scenic highway.  
27 d. Is located in a county in which the on-premises sale of malt  
28 beverages or unfortified wine is authorized in two or more cities in  
29 the county."

30 SECTION 1.(b) G.S. 18B-900(a) is amended by adding a new subdivision to read  
31 as follows:



\* H 5 8 5 - P C S 3 0 6 5 8 - R W - 8 6 \*

1       "(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person  
2 shall:

3       ...  
4       (8) Have a valid social security number or be able to produce valid  
5       documentation issued to the applicant under the authority of the United  
6       States government demonstrating legal presence in the United States."

7       **SECTION 1.(c)** G.S. 18B-1002(d) reads as rewritten:

8       "(d) Administrative Procedure. – A permit issued pursuant to this section shall not be  
9       issued less than 10 days before any qualifying event described in subdivisions (1) through (5)  
10       of subsection (a) of this section. The Commission shall notify the ALE Section not more than  
11       three business days after the date a permit is issued pursuant to this section of the name and  
12       address of the applicant, the address of the event, and any conditions placed on the permit  
13       pursuant to subsection (c) of this section. Denial or revocation of a permit under this section  
14       shall not entitle the applicant or permittee to a hearing under Chapter 150B."

15       **SECTION 2.(a)** G.S. 20-183.2(b)(3) reads as rewritten:

16       "(b) Emissions. – A motor vehicle is subject to an emissions inspection in accordance  
17 with this Part if it meets all of the following requirements:

18       ...  
19       (3) It is (i) a 1996 or later ~~model~~model and older than the three most recent  
20       model years or (ii) a 1996 or later model and has 70,000 miles or more on its  
21       odometer."

22       **SECTION 2.(b)** The Department of Environment and Natural Resources shall  
23 submit for approval the emissions inspection program changes provided in subsection (a) of  
24 this section to the United States Environmental Protection Agency as an amendment to the  
25 North Carolina State Implementation Plan under the federal Clean Air Act. If the United States  
26 Environmental Protection Agency approves the amendment, the Secretary of the Department of  
27 Environment and Natural Resources shall certify this approval to the Revisor of Statutes. In the  
28 certification, the Secretary of the Department of Environment and Natural Resources shall  
29 include the session law number of this act.

30       **SECTION 2.(c)** After the Motor Vehicle Inspection and Law Enforcement System  
31 (MILES) is retired and the replacement system for MILES is operational, the Commissioner of  
32 Motor Vehicles shall certify to the Revisor of Statutes that MILES has been replaced. In the  
33 certification, the Commissioner of Motor Vehicles shall include the session law number of this  
34 act.

35       **SECTION 2.(d)** Subsection (a) of this section becomes effective on the later of the  
36 following dates and applies to motor vehicles inspected, or due to be inspected, on or after the  
37 effective date of subsection (a) of this section:

38       (1) January 1, 2014.

39       (2) The first day of a month that is 30 days after both of the following have  
40 occurred:

41       a. The Department of Environment and Natural Resources certifies to  
42 the Revisor of Statutes that the United States Environmental  
43 Protection Agency has approved the amendment to the North  
44 Carolina State Implementation Plan based on the change to the  
45 emissions inspection program provided in subsection (a) of this  
46 section.

47       b. The Commissioner of Motor Vehicles certifies to the Revisor of  
48 Statutes that the Motor Vehicle Inspection and Law Enforcement  
49 System (MILES) has been replaced.

50       **SECTION 3.** G.S. 20-196.3 reads as rewritten:

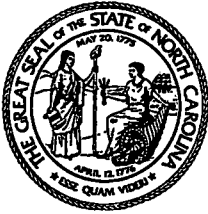
51       "**§ 20-196.3. Who may hold supervisory positions over sworn members of the Patrol.**

1 Notwithstanding any other provision of the General Statutes of North Carolina, it shall be  
2 unlawful for any person other than the ~~Governor and~~ Governor, the Secretary of Public Safety  
3 ~~and other than~~ Safety, the Chief Operating Officer of the Department of Public Safety, or a  
4 uniformed member of the North Carolina State Highway Patrol who has met all requirements  
5 for employment within the Patrol, including but not limited to completion of the basic Patrol  
6 school, to hold any supervisory position over sworn members of the Patrol."

7 **SECTION 4.** G.S. 143-341(8)i.3. reads as rewritten:

8 3. To require on a schedule determined by the Department all  
9 State agencies to transfer ownership, custody or control of  
10 any or all passenger motor vehicles within the ownership,  
11 custody or control of that agency to the Department, except  
12 those motor vehicles under the ownership, custody or control  
13 of the Highway Patrol, the State Bureau of Investigation, or  
14 the constituent institutions of The University of North  
15 Carolina which are used primarily for law-enforcement  
16 purposes, and except those motor vehicles under the  
17 ownership, custody or control of the Department of Public  
18 Safety ~~for Butner Public Safety~~ which are used primarily for  
19 law-enforcement, ~~fire, or emergency purposes.~~ fire,  
20 emergency services, and buses and passenger vans used for  
21 inmate and juvenile transportation."

22 **SECTION 5.** Section 1(a), 1(b), and 1(c) of this act become effective August 1,  
23 2012, and apply to ABC permits issued on or after that date. Except as otherwise provided, the  
24 remainder of this act is effective when it becomes law.



# HOUSE BILL 585: Alcohol Sales/Vehicle Emissions Inspections

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 26, 2012
<b>Introduced by:</b>	Reps. Pridden, Hastings, Jones	<b>Prepared by:</b>	Giles S. Perry
<b>Analysis of:</b>	PCS to Third Edition H585-CSRW-86		Committee Counsel

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**SUMMARY:** *House Bill 585 (proposed committee substitute) makes changes to the alcoholic beverage laws of the State, exempts certain vehicles from emissions inspection requirements, make a change concerning who may supervisor the State Highway Patrol, and exempts specified Department of Public Safety vehicles from Department of Administration motor fleet management control.*

## **BILL ANALYSIS:**

**Section 1** of the bill makes three changes to the alcoholic beverage laws of the State:

- Section 1(a) amends the definition of an "Historic ABC establishment".
- Section 1(b) adds a requirement of a valid social security number or proof of legal presence in order to have an ABC permit.
- Section 1(c) makes changes to the administrative procedures applicable to issuance of a special one-time permit.

**Section 2** of the bill makes changes concerning emissions inspections.

- Section 2(a) exempts motor vehicles in their first three model years, with less than 70,000 miles, from the requirement of an emissions inspections.
- Section 2(b) requires NC DENR to submit this change to the US EPA for approval.
- Section 2(c) requires the Commissioner of Motor Vehicles to certify the date the Motor Vehicle Inspection and Law Enforcement System (MILES) is retired, and its replacement is operational.
- Section 2(d) provides the Section 2(a) is effective the later of: January 1, 2014; or 30 days after DENR gets approval from EPA to the emissions inspection changes, and MILES has been replaced.

**Section 3** of the bill provides that the Chief Operating Officer of the Department of Public Safety is authorized to hold a supervisory position over sworn members of the State Highway Patrol.

**Section 4** of the bill exempts law enforcement, fire, emergency service, and inmate and juvenile transportation vehicles owned by the Department of Public Safety from Department of Administration motor fleet management control.

**EFFECTIVE DATE:** Section 1 becomes effective August 1, 2012, and applies to ABC permits issued on or after that date. Except as provided in the bill, the remainder is effective when it becomes law.

H585-SMRW-243(CSRW-86) v2

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

3

HOUSE BILL 1023  
Committee Substitute Favorable 6/13/12  
Third Edition Engrossed 6/19/12

Short Title: Expunction/Nonviolent Offenses.

(Public)

Sponsors:

Referred to:

May 22, 2012

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR EXPUNCTION OF NONVIOLENT FELONIES OR  
NONVIOLENT MISDEMEANORS AFTER FIFTEEN YEARS FOR PERSONS WHO  
HAVE HAD NO OTHER CONVICTIONS FOR FELONIES OR MISDEMEANORS  
OTHER THAN TRAFFIC VIOLATIONS UNDER THE LAWS OF THE UNITED  
STATES, THIS STATE, OR ANY OTHER JURISDICTION, AS RECOMMENDED BY  
THE LEGISLATIVE RESEARCH COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new  
section to read:

**"§ 15A-145.5. Expunction of certain misdemeanors and felonies; no age limitation.**

(a) For purposes of this section, the term "nonviolent misdemeanor" or "nonviolent felony" means any misdemeanor or felony except the following:

- (1) A Class A through G felony or a Class A1 misdemeanor.
- (2) An offense that includes assault as an essential element of the offense.
- (3) An offense requiring registration pursuant to Article 27A of Chapter 14 of the General Statutes, whether or not the person is currently required to register.
- (4) Any of the following sex-related or stalking offenses: G.S. 14-27.7A(b), 14-190.7, 14-190.8, 14-190.9, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.
- (5) Any felony offense in Chapter 90 of the General Statutes where the offense involves methamphetamines, heroin, or possession with intent to sell or deliver or sell and deliver cocaine.
- (6) An offense under G.S. 14-12.12(b), 14-12.13, or 14-12.14, or any offense for which punishment was determined pursuant to G.S. 14-3(c).
- (7) An offense under G.S. 14-401.16.
- (8) Any felony offense in which a commercial motor vehicle was used in the commission of the offense.

(b) Notwithstanding any other provision of law, if the person is convicted of more than one nonviolent felony or nonviolent misdemeanor in the same session of court and none of the nonviolent felonies or nonviolent misdemeanors are alleged to have occurred after the person had already been served with criminal process for the commission of a nonviolent felony or nonviolent misdemeanor, then the multiple nonviolent felony or nonviolent misdemeanor convictions shall be treated as one nonviolent felony or nonviolent misdemeanor conviction



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1 under this section, and the expunction order issued under this section shall provide that the  
2 multiple nonviolent felony convictions or nonviolent misdemeanor convictions shall be  
3 expunged from the person's record in accordance with this section.

4 (c) A person may file a petition, in the court where the person was convicted, for  
5 expunction of a nonviolent misdemeanor or nonviolent felony conviction from the person's  
6 criminal record if the person has no other misdemeanor or felony convictions, other than a  
7 traffic violation, and was convicted of a nonviolent misdemeanor or nonviolent felony that is  
8 eligible pursuant to subsection (b) of this section. The petition shall not be filed earlier than 15  
9 years after the date of the conviction or when any active sentence, period of probation, and  
10 post-release supervision has been served, whichever occurs later. The petition shall contain, but  
11 not be limited to, the following:

12 (1) An affidavit by the petitioner that the petitioner has been of good moral  
13 character since the date of conviction for the nonviolent misdemeanor or  
14 nonviolent felony and has not been convicted of any other felony or  
15 misdemeanor, other than a traffic violation, under the laws of the United  
16 States or the laws of this State or any other state.

17 (2) Verified affidavits of two persons who are not related to the petitioner or to  
18 each other by blood or marriage, that they know the character and reputation  
19 of the petitioner in the community in which the petitioner lives and that the  
20 petitioner's character and reputation are good.

21 (3) A statement that the petition is a motion in the cause in the case wherein the  
22 petitioner was convicted.

23 (4) An application on a form approved by the Administrative Office of the  
24 Courts requesting and authorizing a name-based State and national criminal  
25 history record check by the Department of Justice using any information  
26 required by the Administrative Office of the Courts to identify the  
27 individual, a search by the Department of Justice for any outstanding  
28 warrants on pending criminal cases, and a search of the confidential record  
29 of expunctions maintained by the Administrative Office of the Courts. The  
30 application shall be forwarded to the Department of Justice and to the  
31 Administrative Office of the Courts, which shall conduct the searches and  
32 report their findings to the court.

33 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
34 representing amounts ordered for restitution entered against the petitioner  
35 are outstanding.

36 Upon filing of the petition, the petition shall be served upon the district attorney of the court  
37 wherein the case was tried resulting in conviction. The district attorney shall have 30 days  
38 thereafter in which to file any objection thereto and shall be duly notified as to the date of the  
39 hearing of the petition. Upon good cause shown, the court may grant the district attorney an  
40 additional 30 days to file objection to the petition. The district attorney shall make his or her  
41 best efforts to contact the victim, if any, to notify the victim of the request for expunction prior  
42 to the date of the hearing.

43 The presiding judge is authorized to call upon a probation officer for any additional  
44 investigation or verification of the petitioner's conduct since the conviction. The court shall  
45 review any other information the court deems relevant, including, but not limited to, affidavits  
46 or other testimony provided by law enforcement officers, district attorneys, and victims of  
47 crimes committed by the petitioner.

48 If the court, after hearing, finds that the petitioner has not previously been granted an  
49 expunction under this section, G.S. 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, or  
50 15A-145.4; the petitioner has remained of good moral character; the petitioner has no  
51 outstanding warrants or pending criminal cases; the petitioner has no other felony or



1 misdemeanor convictions other than a traffic violation; the petitioner has no outstanding  
 2 restitution orders or civil judgments representing amounts ordered for restitution entered  
 3 against the petitioner; and the petitioner was convicted of an offense eligible for expunction  
 4 under this section and was convicted of, and completed any sentence received for, the  
 5 nonviolent misdemeanor or nonviolent felony at least 15 years prior to the filing of the petition.  
 6 it may order that such person be restored, in the contemplation of the law, to the status the  
 7 person occupied before such arrest or indictment or information. If the court denies the petition,  
 8 the order shall include a finding as to the reason for the denial.

9 (d) No person as to whom an order has been entered pursuant to subsection (c) of this  
 10 section shall be held thereafter under any provision of any law to be guilty of perjury or  
 11 otherwise giving a false statement by reason of that person's failure to recite or acknowledge  
 12 the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the  
 13 provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all  
 14 convictions to the certifying Commission, regardless of whether or not the convictions were  
 15 expunged pursuant to the provisions of this section.

16 Persons required by State law to obtain a criminal history record check on a prospective  
 17 employee shall not be deemed to have knowledge of any convictions expunged under this  
 18 section.

19 (e) The court shall also order that the conviction be expunged from the records of the  
 20 court and direct all law enforcement agencies bearing record of the same to expunge their  
 21 records of the conviction. The clerk shall notify State and local agencies of the court's order, as  
 22 provided in G.S. 15A-150.

23 (f) Any other applicable State or local government agency shall expunge from its  
 24 records entries made as a result of the conviction ordered expunged under this section upon  
 25 receipt from the petitioner of an order entered pursuant to this section. The agency shall also  
 26 reverse any administrative actions taken against a person whose record is expunged under this  
 27 section as a result of the charges or convictions expunged. This subsection shall not apply to  
 28 the Department of Justice for DNA records and samples stored in the State DNA Database and  
 29 the State DNA Databank or to fingerprint records.

30 (g) A person who files a petition for expunction of a criminal record under this section  
 31 must pay the clerk of superior court a fee of one hundred seventy-five dollars (\$175.00) at the  
 32 time the petition is filed. Fees collected under this subsection shall be deposited in the General  
 33 Fund. This subsection does not apply to petitions filed by an indigent."

34 SECTION 2. G.S. 15A-145.4 reads as rewritten:

35 "§ 15A-145.4. **Expunction of records for first offenders who are under 18 years of age at**  
 36 **the time of the commission of a nonviolent felony.**

37 (a) For purposes of this section, the term "nonviolent felony" means any felony except  
 38 the following:

- 39 (1) A Class A through G felony.  
 40 (2) A felony that includes assault as an essential element of the offense.  
 41 (3) A felony that is an offense ~~for which the convicted offender must register~~  
 42 ~~under requiring registration pursuant to Article 27A of Chapter 14 of the~~  
 43 ~~General Statutes. Statutes, whether or not the person is currently required to~~  
 44 ~~register.~~  
 45 (4) ~~A felony that is an offense that did not require registration under Article 27A~~  
 46 ~~of Chapter 14 of the General Statutes at the time of the commission of the~~  
 47 ~~offense but does require registration on the date the petition to expunge the~~  
 48 ~~offense would be filed.~~  
 49 (5)(4) ~~A felony charged for any of~~ Any felony offense under the following  
 50 sex-related or stalking offenses: G.S. 14-27.7A(b), ~~14-190.6, 14-190.7,~~  
 51 ~~14-190.8, 14-202, 14-208.11A, 14-208.18, 14-277.3, 14-277.3A, 14-321.1.~~

1           ~~(6)~~(5) Any felony offense ~~charged pursuant to~~ Chapter 90 of the General Statutes  
2 where the offense involves methamphetamines, heroin, or possession with  
3 intent to sell or deliver or sell and deliver ~~ecaine-cocaine~~; except that if a  
4 prayer for judgment continued has been entered for an offense classified as  
5 either a Class G, H, or I felony, the prayer for judgment continued shall be  
6 subject to expunction under the procedures in this section.

7           ~~(7)~~(6) A felony offense ~~charged pursuant to~~ under G.S. 14-12.12(b), 14-12.13, or  
8 14-12.14, or any felony offense charged as a felony for which punishment  
9 was determined pursuant to G.S. 14-3(c).

10           ~~(8)~~(7) A felony offense ~~charged pursuant to~~ under G.S. 14-401.16.

11           ~~(9)~~(8) ~~A~~ Any felony offense in which a commercial motor vehicle was used in the  
12 commission of the offense.

13           (b) Notwithstanding any other provision of law, if the person is convicted of more than  
14 one nonviolent felony in the same session of court and none of the nonviolent felonies are  
15 alleged to have occurred after the person had already been ~~charged and arrested~~ served with  
16 criminal process for the commission of a nonviolent felony, then the multiple nonviolent felony  
17 convictions shall be treated as one nonviolent felony conviction under this section, and the  
18 expunction order issued under this section shall provide that the multiple nonviolent felony  
19 convictions shall be expunged from the person's record in accordance with this section.

20           (c) Whenever any person who had not yet attained the age of 18 years at the time of the  
21 commission of the offense and has not previously been convicted of any felony or  
22 misdemeanor other than a traffic violation under the laws of the United States or the laws of  
23 this State or any other state pleads guilty to or is guilty of a nonviolent felony, the person may  
24 file a petition in the court where the person was convicted for expunction of the nonviolent  
25 felony from the person's criminal record. The petition shall not be filed earlier than four years  
26 after the date of the conviction or when any active sentence, period of probation, and  
27 post-release supervision has been served, whichever occurs later. The person shall also perform  
28 at least 100 hours of community service, preferably related to the conviction, before filing a  
29 petition for expunction under this section. The petition shall contain the following:

30           (1) An affidavit by the petitioner that the petitioner has been of good moral  
31 character since the date of conviction of the nonviolent felony in question  
32 and has not been convicted of any other felony or any misdemeanor other  
33 than a traffic violation under the laws of the United States or the laws of this  
34 State or any other state.

35           (2) Verified affidavits of two persons who are not related to the petitioner or to  
36 each other by blood or marriage, that they know the character and reputation  
37 of the petitioner in the community in which the petitioner lives and that the  
38 petitioner's character and reputation are good.

39           (3) A statement that the petition is a motion in the cause in the case wherein the  
40 petitioner was convicted.

41           (4) An application on a form approved by the Administrative Office of the  
42 Courts requesting and authorizing (i) a State and national criminal history  
43 record check by the Department of Justice using any information required by  
44 the Administrative Office of the Courts to identify the individual; (ii) a  
45 search by the Department of Justice for any outstanding warrants or pending  
46 criminal cases; and (iii) a search of the confidential record of expunctions  
47 maintained by the Administrative Office of the Courts. The application shall  
48 be forwarded to the Department of Justice and to the Administrative Office  
49 of the Courts, which shall conduct the searches and report their findings to  
50 the court.

- 1 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
2 representing amounts ordered for restitution entered against the petitioner  
3 are outstanding.  
4 (6) An affidavit by the petitioner that the petitioner has performed at least 100  
5 hours of community service since the conviction for the nonviolent felony.  
6 The affidavit shall include a list of the community services performed, a list  
7 of the recipients of the services, and a detailed description of those services.  
8 (7) An affidavit by the petitioner that the petitioner possesses a high school  
9 diploma, a high school graduation equivalency certificate, or a General  
10 Education Development degree.

11 The petition shall be served upon the district attorney of the court wherein the case was  
12 tried resulting in conviction. The district attorney shall have 30 days thereafter in which to file  
13 any objection thereto and shall be duly notified as to the date of the hearing of the petition. The  
14 district attorney shall make his or her best efforts to contact the victim, if any, to notify the  
15 victim of the request for expunction prior to the date of the hearing.

16 (d) The court in which the petition was filed shall take the following steps and shall  
17 consider the following issues in rendering a decision upon a petition for expunction of records  
18 of a nonviolent felony under this section:

- 19 (1) Call upon a probation officer for additional investigation or verification of  
20 the petitioner's conduct during the four-year period since the date of  
21 conviction of the nonviolent felony in question.  
22 (2) Review the petitioner's juvenile record, ensuring that the petitioner's juvenile  
23 records remain separate from adult records and files and are withheld from  
24 public inspection as provided under Article 30 of Chapter 7B of the General  
25 Statutes.  
26 (3) Review the amount of restitution made by the petitioner to the victim of the  
27 nonviolent felony to be expunged and give consideration to whether or not  
28 restitution was paid in full.  
29 (4) Review any other information the court deems relevant, including, but not  
30 limited to, affidavits or other testimony provided by law enforcement  
31 officers, district attorneys, and victims of nonviolent felonies committed by  
32 the petitioner.

33 (e) The court may order that the person be restored, in the contemplation of the law, to  
34 the status the person occupied before the arrest or indictment or information if the court finds  
35 all of the following after a hearing:

- 36 (1) The petitioner has remained of good moral character and has been free of  
37 conviction of any felony or misdemeanor, other than a traffic violation, for  
38 four years from the date of conviction of the nonviolent felony in question or  
39 any active sentence, period of probation, or post-release supervision has  
40 been served, whichever is later.  
41 (2) The petitioner has not previously been convicted of any felony or  
42 misdemeanor other than a traffic violation under the laws of the United  
43 States or the laws of this State or any other state.  
44 (3) The petitioner has no outstanding warrants or pending criminal cases.  
45 (4) The petitioner has no outstanding restitution orders or civil judgments  
46 representing amounts ordered for restitution entered against the petitioner.  
47 (5) The petitioner was less than 18 years old at the time of the commission of  
48 the offense in question.  
49 (6) The petitioner has performed at least 100 hours of community service since  
50 the time of the conviction and possesses a high school diploma, a high

1 school graduation equivalency certificate, or a General Education  
2 Development degree.

3 (7) The search of the confidential records of expunctions conducted by the  
4 Administrative Office of the Courts shows that the petitioner has not been  
5 previously granted an expunction.

6 (f) No person as to whom an order has been entered pursuant to subsection (e) of this  
7 section shall be held thereafter under any provision of any laws to be guilty of perjury or  
8 otherwise giving a false statement by reason of that person's failure to recite or acknowledge  
9 the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the  
10 provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all  
11 felony convictions to the certifying Commission regardless of whether or not the felony  
12 convictions were expunged pursuant to the provisions of this section.

13 Persons required by State law to obtain a criminal history record check on a prospective  
14 employee shall not be deemed to have knowledge of any convictions expunged under this  
15 section.

16 (g) The court shall also order that the nonviolent felony conviction be expunged from  
17 the records of the court and direct all law enforcement agencies bearing record of the same to  
18 expunge their records of the conviction. The clerk shall notify State and local agencies of the  
19 court's order as provided in G.S. 15A-150.

20 (h) Any other applicable State or local government agency shall expunge from its  
21 records entries made as a result of the conviction ordered expunged under this section. The  
22 agency shall also reverse any administrative actions taken against a person whose record is  
23 expunged under this section as a result of the charges or convictions expunged. This subsection  
24 shall not apply to the Department of Justice for DNA records and samples stored in the State  
25 DNA Database and the State DNA Databank.

26 (i) Any person eligible for expunction of a criminal record under this section shall be  
27 notified about the provisions of this section by the probation officer assigned to that person. If  
28 no probation officer is assigned, notification of the provisions of this section shall be provided  
29 by the court at the time of the conviction of the felony which is to be expunged under this  
30 section."

31 **SECTION 3.** G.S. 15A-145(d1) is repealed.

32 **SECTION 4.** G.S. 15A-146 reads as rewritten:

33 **"§ 15A-146. Expunction of records when charges are dismissed or there are findings of**  
34 **not guilty.**

35 (a) If any person is charged with a crime, either a misdemeanor or a felony, or was  
36 charged with an infraction under G.S. 18B-302(i) prior to December 1, 1999, and the charge is  
37 dismissed, or a finding of not guilty or not responsible is entered, that person may apply to the  
38 court of the county where the charge was brought for an order to expunge from all official  
39 records any entries relating to his apprehension or trial. The court shall hold a hearing on the  
40 application and, upon finding that the person had not previously received an expungement  
41 under this section, G.S. 15A-145, ~~G.S. 15A-145.1, 15A-145.2, or 15A-145.3, 15A-145.3,~~  
42 15A-145.4, or 15A-145.5, and that the person had not previously been convicted of any felony  
43 under the laws of the United States, this State, or any other state, the court shall order the  
44 expunction. No person as to whom such an order has been entered shall be held thereafter  
45 under any provision of any law to be guilty of perjury, or to be guilty of otherwise giving a  
46 false statement or response to any inquiry made for any purpose, by reason of his failure to  
47 recite or acknowledge any expunged entries concerning apprehension or trial.

48 (a1) Notwithstanding subsection (a) of this section, if a person is charged with multiple  
49 offenses and all the charges are dismissed, or findings of not guilty or not responsible are made,  
50 then a person may apply to have each of those charges expunged if the offenses occurred within  
51 the same 12-month period of time or if the charges are dismissed or findings are made at the

1 same term of court. Unless circumstances otherwise clearly provide, the phrase "term of court"  
2 shall mean one week for superior court and one day for district court. There is no requirement  
3 that the multiple offenses arise out of the same transaction or occurrence or that the multiple  
4 offenses were consolidated for judgment. The court shall hold a hearing on the application. If  
5 the court finds (i) that the person had not previously received an expungement under this  
6 subsection, or that any previous expungement received under this subsection occurred prior to  
7 October 1, 2005 and was for an offense that occurred within the same 12-month period of time,  
8 or was dismissed or findings made at the same term of court, as the offenses that are the subject  
9 of the current application, (ii) that the person had not previously received an expungement  
10 under G.S. 15A-145, 15A-145.1, 15A-145.2, ~~or 15A-145.3, 15A-145.3, 15A-145.4, or~~  
11 15A-145.5, and (iii) that the person had not previously been convicted of any felony under the  
12 laws of the United States, this State, or any other state, the court shall order the expunction. No  
13 person as to whom such an order has been entered shall be held thereafter under any provision  
14 of any law to be guilty of perjury, or to be guilty of otherwise giving a false statement or  
15 response to any inquiry made for any purpose, by reason of his failure to recite or acknowledge  
16 any expunged entries concerning apprehension or trial.

17 (b) The court may also order that the said entries, including civil revocations of drivers  
18 licenses as a result of the underlying charge, shall be expunged from the records of the court,  
19 and direct all law-enforcement agencies, the Division of Adult Correction of the Department of  
20 Public Safety, the Division of Motor Vehicles, and any other State or local government  
21 agencies identified by the petitioner as bearing record of the same to expunge their records of  
22 the entries, including civil revocations of drivers licenses as a result of the underlying charge  
23 being expunged. This subsection does not apply to civil or criminal charges based upon the  
24 civil revocation, or to civil revocations under G.S. 20-16.2. The clerk shall notify State and  
25 local agencies of the court's order as provided in G.S. 15A-150. The clerk shall forward a  
26 certified copy of the order to the Division of Motor Vehicles for the expunction of a civil  
27 revocation provided the underlying criminal charge is also expunged. The civil revocation of a  
28 drivers license shall not be expunged prior to a final disposition of any pending civil or criminal  
29 charge based upon the civil revocation. The costs of expunging the records, as required under  
30 G.S. 15A-150, shall not be taxed against the petitioner.

31 (b1) Any person entitled to expungement under this section may also apply to the court  
32 for an order expunging DNA records when the person's case has been dismissed by the trial  
33 court and the person's DNA record or profile has been included in the State DNA Database and  
34 the person's DNA sample is stored in the State DNA Databank. A copy of the application for  
35 expungement of the DNA record or DNA sample shall be served on the district attorney for the  
36 judicial district in which the felony charges were brought not less than 20 days prior to the date  
37 of the hearing on the application. If the application for expungement is granted, a certified copy  
38 of the trial court's order dismissing the charges shall be attached to an order of expungement.  
39 The order of expungement shall include the name and address of the defendant and the  
40 defendant's attorney and shall direct the SBI to send a letter documenting expungement as  
41 required by subsection (b2) of this section.

42 (b2) Upon receiving an order of expungement entered pursuant to subsection (b1) of this  
43 section, the SBI shall purge the DNA record and all other identifying information from the  
44 State DNA Database and the DNA sample stored in the State DNA Databank covered by the  
45 order, except that the order shall not apply to other offenses committed by the individual that  
46 qualify for inclusion in the State DNA Database and the State DNA Databank. A letter  
47 documenting expungement of the DNA record and destruction of the DNA sample shall be sent  
48 by the SBI to the defendant and the defendant's attorney at the address specified by the court in  
49 the order of expungement.

50 (c) The clerk shall notify State and local agencies of the court's order as provided in  
51 G.S. 15A-150."

1           **SECTION 5.** G.S. 15A-151(a) reads as rewritten:

2   "**§ 15A-151. Confidential agency files; exceptions to expunction.**

3       (a)     The Administrative Office of the Courts shall maintain a confidential file containing  
4 the names of those people for whom it received a notice under G.S. 15A-150. The information  
5 contained in the file may be disclosed only as follows:

6           (1)    To a judge of the General Court of Justice of North Carolina for the purpose  
7                of ascertaining whether a person charged with an offense has been  
8                previously granted a discharge or an expunction.

9           (2)    To a person requesting confirmation of the person's own discharge or  
10                expunction, as provided in G.S. 15A-152.

11          (3)    To the General Court of Justice of North Carolina in response to a subpoena  
12                or other court order issued pursuant to a civil action under G.S. 15A-152.

13          (4)    If the criminal record was expunged pursuant to  
14                ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, to State and local law  
15                enforcement agencies for employment purposes only.

16          (5)    If the criminal record was expunged pursuant to  
17                ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, to the North Carolina  
18                Criminal Justice Education and Training Standards Commission for  
19                certification purposes only.

20          (6)    If the criminal record was expunged pursuant to  
21                ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, to the North Carolina  
22                Sheriffs' Education and Training Standards Commission for certification  
23                purposes only."

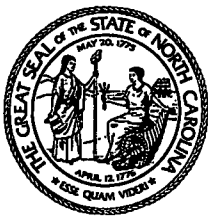
24           **SECTION 6.** G.S. 17C-13(b) reads as rewritten:

25       (b)     Notwithstanding ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, the  
26 Commission may gain access to a person's felony conviction records, including those  
27 maintained by the Administrative Office of the Courts in its confidential files containing the  
28 names of persons granted expunctions. The Commission may deny, suspend, or revoke a  
29 person's certification based solely on that person's felony conviction, whether or not that  
30 conviction was expunged."

31           **SECTION 7.** G.S. 17E-12(b) reads as rewritten:

32       (b)     Notwithstanding ~~G.S. 15A-145.4~~, G.S. 15A-145.4 or G.S. 15A-145.5, the  
33 Commission may gain access to a person's felony conviction records, including those  
34 maintained by the Administrative Office of the Courts in its confidential files containing the  
35 names of persons granted expunctions. The Commission may deny, suspend, or revoke a  
36 person's certification based solely on that person's felony conviction, whether or not that  
37 conviction was expunged."

38           **SECTION 8.** Sections 2, 3, and 4 of this act become effective December 1, 2012,  
39 and apply to petitions filed on or after that date, but petitions filed prior to that date are not  
40 abated by this act. The remainder of this act becomes effective December 1, 2012.



# HOUSE BILL 1023: Expunction/Nonviolent Offenses

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Rep. Daughtry  
**Analysis of:** Third Edition

**Date:** June 26, 2012  
**Prepared by:** Susan Sitze and  
Giles S. Perry  
Committee Counsel

**SUMMARY:** *House Bill 1023 would allow expunctions of nonviolent felonies or nonviolent misdemeanors after 15 years for persons who have had no other convictions for felonies or misdemeanors other than traffic violations.*

**CURRENT LAW:** Expunction is a judicial process for removing records pertaining to a criminal case. The purpose of expunction is to clear the public record of entries so that a person who is entitled to expunction may omit reference to the charges to potential employers and others, and so that a records check for prior arrests and convictions will not disclose the expunged entries. In North Carolina, expunction is limited to specifically defined situations, and a person can generally be granted only one expunction in his or her lifetime. Each expunction statute specifically prescribes who may apply for expunction and the conditions under which the court can order expunction.

Laws pertaining to the expunction of criminal records are set out in Article 5 of Chapter 15A of the General Statutes. There is currently no general provision for the expunction of misdemeanor or felony convictions. However, there are limited provisions that allow for the expunction of some misdemeanors or felonies usually based on the offender's age at the time of the offense.

## **BILL ANALYSIS:**

**Section 1** would create a process to allow persons convicted of nonviolent misdemeanors or nonviolent felonies to expunge those convictions, regardless of their age at the time of the offense, after a period of 15 years. The 15 year period is calculated from the conviction date or the completion of any sentence, period of post-release supervision or period of probation. Multiple convictions arising occurring in the same session of court, where none of the offenses are alleged to have occurred after service of process for another offense, may all be expunged.

The bill would not allow the expunction of Class A through G felonies; Class A1 misdemeanors; assaults; sex offenses that require registration; specific sex-related and stalking offenses; certain drug offenses involving methamphetamines, heroin, or cocaine; ethnic intimidation; contamination of food or drink to incapacitate the victim; or use of a commercial vehicle to commit a felony.

The bill would set up a petition process that includes payment of a \$175 fee, notice to the district attorney, with a right to file objection to the petition, and judicial authority to call upon a probation officer for investigation or verification of petitioner's conduct.

In order to grant the petition to expunge the convictions, the court must find:

- The petitioner has not previously had a conviction expunged under any of the expunction provisions.
- The petitioner has remained of good moral character, and has no outstanding warrants or pending criminal cases.
- The petitioner has no other felony or misdemeanor convictions, other than a traffic violation.

# House Bill 1023

Page 2

- The petitioner has no outstanding restitution orders or civil judgments representing amounts ordered for restitution.

No person who has had an offense expunged pursuant to this bill would be guilty of perjury or giving a false statement for failure to acknowledge the offense. However, any person seeking certification as a law enforcement officer shall disclose any and all convictions to the certifying Commission even if they have been expunged pursuant to this bill.

**Section 2** would make clarifying changes to the definition of "nonviolent felony" in G.S. 15A-145.4, the statute authorizing the expunction, after 4 years, of nonviolent felonies committed by offenders under the age of 18.

**Sections 3, 4, 5, 6 & 7** make conforming changes to other statutes referencing expunction statutes.

**EFFECTIVE DATE:** Sections 2, 3, & 4 of this act become effective December 1, 2012, and apply to petitions filed on or after that date, but petitions filed prior to that date are not abated by this act. The remainder of this act becomes effective December 1, 2012.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 847\*  
PROPOSED COMMITTEE SUBSTITUTE S847-CSMN-2 [v.12]

6/27/2012 12:08:09 AM

Short Title: GSC Technical Corrections/Other Changes.

(Public)

Sponsors:

Referred to:

May 22, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE GENERAL STATUTES,  
3 INCLUDING SPECIFICALLY AUTHORIZING THE REVISOR OF STATUTES TO  
4 PRINT DRAFTERS' COMMENTS TO THREE ACTS ENACTED IN 2011 IN WHICH  
5 THIS AUTHORIZATION WAS INADVERTENTLY OMITTED, AS RECOMMENDED  
6 BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER  
7 AMENDMENTS.

8 THE GENERAL ASSEMBLY OF NORTH CAROLINA ENACTS:

9 PART I. GENERAL STATUTES COMMISSION TECHNICAL CORRECTIONS.

10 SECTION 1.(a). The intent of this section is to codify the permanent reductions to  
11 the minimum number of magistrates in various counties and the number of full-time assistant  
12 district attorneys in certain prosecutorial districts that have been made by the Administrative  
13 Office of the Courts pursuant to Section 15.14 of S.L. 2010-31, as added by Section 6.4 of S.L.  
14 2010-123, to the end that the General Statutes reflect the actual authorized numbers of  
15 magistrates and assistant district attorneys.

16 SECTION 1.(b). G.S. 7A-60(a1) reads as rewritten:

17 "(a1) (See Editor's note for staffing changes) The counties of the State are organized  
18 into prosecutorial districts, and each district has the counties and the number of full-time  
19 assistant district attorneys set forth in the following table:

20			No. of Full-Time
21	Prosecutorial		Asst. District
22	District	Counties	Attorneys
23	1	Camden, Chowan, Currituck,	11
24		Dare, Gates, Pasquotank,	
25		Perquimans	
26	2	Beaufort, Hyde, Martin,	8
27		Tyrrell, Washington	
28	3A	Pitt	11
29	3B	Carteret, Craven, Pamlico	12
30	4	Duplin, Jones, Onslow,	18
31		Sampson	
32	5	New Hanover, Pender	18
33	6A	Halifax	5
34	6B	Bertie, Hertford,	65



1		Northampton	
2	7	Edgecombe, Nash, Wilson	<u>1918</u>
3	8	Greene, Lenoir, Wayne	14
4	9	Franklin, Granville,	<u>1210</u>
5		Vance, Warren	
6	9A	Person, Caswell	6
7	10	Wake	<u>4241</u>
8	11A	Harnett, Lee	9
9	11B	Johnston	10
10	12	Cumberland	23
11	13	Bladen, Brunswick, Columbus	13
12	14	Durham	18
13	15A	Alamance	11
14	15B	Orange, Chatham	10
15	16A	Scotland, Hoke	7
16	16B	Robeson	<u>1312</u>
17	17A	Rockingham	7
18	17B	Stokes, Surry	8
19	18	Guilford	32
20	19A	Cabarrus	9
21	19B	Montgomery, Randolph	<u>109</u>
22	19C	Rowan	8
23	19D	Moore	5
24	20A	Anson, Richmond,	<u>1211</u>
25		Stanly	
26	20B	Union	10
27	21	Forsyth	25
28	22A	Alexander, Iredell	11
29	22B	Davidson, Davie	11
30	23	Alleghany, Ashe, Wilkes,	8
31		Yadkin	
32	24	Avery, Madison, Mitchell,	7
33		Watauga, Yancey	
34	25	Burke, Caldwell, Catawba	<u>1918</u>
35	26	Mecklenburg	58
36	27A	Gaston	<u>1514</u>
37	27B	Cleveland,	11
38		Lincoln	
39	28	Buncombe	14
40	29A	McDowell, Rutherford	7
41	29B	Henderson, Polk, Transylvania	8
42	30	Cherokee, Clay, Graham,	<u>1110</u>
43		Haywood, Jackson, Macon,	
44		Swain."	

**SECTION 1.(c).** G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

		Additional Seats of
	Magistrates	

	County	Min.	Court
1	County		
2	Camden	3	
3	Chowan	3	
4	Currituck	4	
5	Dare	6	
6	Gates	2	
7	Pasquotank	<del>54</del>	
8	Perquimans	3	
9	Martin	4	
10	Beaufort	<del>5.055</del>	
11	Tyrrell	3	
12	Hyde	3.5	
13	Washington	<del>43</del>	
14	Pitt	10.5	Farmville
15			Ayden
16	Craven	<del>108</del>	Havelock
17	Pamlico	3	
18	Carteret	<del>97</del>	
19	Sampson	<del>76</del>	
20	Duplin	<del>84</del>	
21	Jones	2	
22	Onslow	11	
23	New Hanover	11	
24	Pender	<del>4.83.8</del>	
25	Halifax	<del>127</del>	Roanoke
26			Rapids,
27			Scotland Neck
28	Northampton	5.25	
29	Bertie	<del>53</del>	
30	Hertford	<del>65</del>	
31	Nash	9	Rocky Mount
32	Edgecombe	7	Rocky Mount
33	Wilson	7	
34	Wayne	9	Mount Olive
35	Greene	4	
36	Lenoir	7	La Grange
37	Granville	<del>76.75</del>	
38	Vance	6	
39	Warren	3.5	
40	Franklin	7	
41	Person	4	
42	Caswell	<del>43</del>	
43	Wake	18.5	Apex,
44			Wendell,
45			Fuquay-
46			Varina,
47			Wake Forest
48	Harnett	<del>108</del>	Dunn
49	Johnston	<del>110</del>	Benson,
50			Clayton,
51			Selma

1	Lee	<del>5</del> <u>55</u>	
2	Cumberland	19	
3	Bladen	<del>54</del>	
4	Brunswick	9	
5	Columbus	<del>9</del> <u>57.5</u>	Tabor City
6	Durham	13	
7	Alamance	12	Burlington
8	Orange	<del>97</del>	Chapel Hill
9	Chatham	<del>64</del>	Siler City
10	Scotland	5	
11	Hoke	<del>53</del>	
12	Robeson	<del>15</del> <u>13</u>	Fairmont,
13			Maxton,
14			Pembroke,
15			Red Springs,
16			Rowland,
17			St. Pauls
18	Rockingham	<del>97</del>	Reidsville,
19			Eden,
20			Madison
21	Stokes	5	
22	Surry	9	Mt. Airy
23	Guilford	24.4	High Point
24	Cabarrus	9	Kannapolis
25	Montgomery	<del>54</del>	
26	Randolph	<del>109</del>	Liberty
27	Rowan	9	
28	Stanly	<del>65</del>	
29	Union	7	
30	Anson	<del>54</del>	
31	Richmond	<del>65</del>	Hamlet
32	Moore	<del>6</del> <u>55</u>	Southern
33			Pines
34	Forsyth	15	Kernersville
35	Alexander	4	
36	Davidson	<del>108</del>	Thomasville
37	Davie	<del>43</del>	
38	Iredell	9	Mooreville
39	Alleghany	2	
40	Ashe	<del>43</del>	
41	Wilkes	6	
42	Yadkin	<del>43</del>	
43	Avery	4	
44	Madison	4	
45	Mitchell	4	
46	Watauga	<del>54</del>	
47	Yancey	3	
48	Burke	<del>6</del> <u>755.6</u>	
49	Caldwell	<del>76</del>	
50	Catawba	10	Hickory
51	Mecklenburg	26.50	

1	Gaston	17	
2	Cleveland	<u>87</u>	
3	Lincoln	6	
4	Buncombe	15	
5	Henderson	6.5	
6	McDowell	<u>4.54</u>	
7	Polk	4	
8	Rutherford	<u>76</u>	
9	Transylvania	4	
10	Cherokee	4	
11	Clay	2	
12	Graham	2	
13	Haywood	<u>6.756</u>	Canton
14	Jackson	<u>54</u>	
15	Macon	3.5	
16	Swain	<u>3.753"</u>	

17 SECTION 1.(d). Effective January 1, 2013, G.S. 7A-133(c), as amended by  
 18 subsection (c) of this section, reads as rewritten:

19 "(c) Each county shall have the numbers of magistrates and additional seats of district  
 20 court, as set forth in the following table:

21			
22			
23			Additional
24		Magistrates	Seats of
25	County	Min.	Court
26	Camden	3	
27	Chowan	3	
28	Currituck	<u>43</u>	
29	Dare	<u>64</u>	
30	Gates	2	
31	Pasquotank	4	
32	Perquimans	3	
33	Martin	<u>43</u>	
34	Beaufort	<u>54</u>	
35	Tyrrell	3	
36	Hyde	3.5	
37	Washington	3	
38	Pitt	10.5	Farmville
39			Ayden
40	Craven	8	Havelock
41	Pamlico	3	
42	Carteret	<u>76</u>	
43	Sampson	<u>65</u>	
44	Duplin	4	
45	Jones	2	
46	Onslow	11	
47	New Hanover	11	
48	Pender	3.8	
49	Halifax	7	Roanoke
50			Rapids,
51			Scotland Neck

1	Northampton	<u>5.253</u>	
2	Bertie	3	
3	Hertford	<u>53</u>	
4	Nash	9	Rocky Mount
5	Edgecombe	7	Rocky Mount
6	Wilson	7	
7	Wayne	9	Mount Olive
8	Greene	<u>43</u>	
9	Lenoir	7	La Grange
10	Granville	<u>6.755</u>	
11	Vance	6	
12	Warren	<u>3.53</u>	
13	Franklin	<u>74</u>	
14	Person	4	
15	Caswell	3	
16	Wake	18.5	Apex,
17			Wendell,
18			Fuquay-
19			Varina,
20			Wake Forest
21	Harnett	8	Dunn
22	Johnston	10	Benson,
23			Clayton,
24			Selma
25	Lee	5	
26	Cumberland	19	
27	Bladen	<u>43</u>	
28	Brunswick	<u>98</u>	
29	Columbus	<u>7.55</u>	Tabor City
30	Durham	13	
31	Alamance	12	Burlington
32	Orange	7	Chapel Hill
33	Chatham	4	Siler City
34	Scotland	5	
35	Hoke	3	
36	Robeson	<u>1312</u>	Fairmont,
37			Maxton,
38			Pembroke,
39			Red Springs,
40			Rowland,
41			St. Pauls
42	Rockingham	7	Reidsville,
43			Eden,
44			Madison
45	Stokes	<u>53</u>	
46	Surry	<u>96</u>	Mt. Airy
47	Guilford	24.4	High Point
48	Cabarrus	9	Kannapolis
49	Montgomery	<u>43</u>	
50	Randolph	9	Liberty
51	Rowan	9	

1	Stanly	5	
2	Union	7	
3	Anson	<u>43</u>	
4	Richmond	5	Hamlet
5	Moore	5	Southern
6			Pines
7	Forsyth	15	Kernersville
8	Alexander	<u>43</u>	
9	Davidson	8	Thomasville
10	Davie	3	
11	Iredell	9	Mooresville
12	Alleghany	2	
13	Ashe	3	
14	Wilkes	6	
15	Yadkin	3	
16	Avery	<u>43</u>	
17	Madison	<u>43</u>	
18	Mitchell	<u>43</u>	
19	Watauga	4	
20	Yancey	3	
21	Burke	5.6	
22	Caldwell	6	
23	Catawba	10	Hickory
24	Mecklenburg	26.50	
25	Gaston	17	
26	Cleveland	7	
27	Lincoln	<u>65</u>	
28	Buncombe	15	
29	Henderson	6.5	
30	McDowell	<u>43</u>	
31	Polk	<u>43</u>	
32	Rutherford	6	
33	Transylvania	<u>43</u>	
34	Cherokee	<u>43</u>	
35	Clay	2	
36	Graham	2	
37	Haywood	<u>65</u>	Canton
38	Jackson	<u>43</u>	
39	Macon	<del>3.53</del>	
40	Swain	3"	

41           **SECTION 1.(e).** Subsection (d) of this section is effective January 1, 2013. The  
 42 remainder of this section is effective when it becomes law.

43           **SECTION 2.** G.S. 7B-1112 reads as rewritten:

44   "**§ 7B-1112. Effects of termination order.**

45       An order terminating the parental rights completely and permanently terminates all rights  
 46 and obligations of the parent to the juvenile and of the juvenile to the parent arising from the  
 47 parental relationship, except that the juvenile's right of inheritance from the juvenile's parent  
 48 shall not terminate until a final order of adoption is issued. The parent is not thereafter entitled  
 49 to notice of proceedings to adopt the juvenile and may not object thereto or otherwise  
 50 participate therein:

- 1 (1) If the juvenile had been placed in the custody of or released for adoption by  
2 one parent to a county department of social services or licensed  
3 child-placing agency and is in the custody of the agency at the time of the  
4 filing of the petition or motion, including a petition or motion filed pursuant  
5 to ~~G.S. 7B-1103(6)~~, G.S. 7B-1103(a)(6), that agency shall, upon entry of the  
6 order terminating parental rights, acquire all of the rights for placement of  
7 the juvenile, except as otherwise provided in G.S. 7B-908(d), as the agency  
8 would have acquired had the parent whose rights are terminated released the  
9 juvenile to that agency pursuant to the provisions of Part 7 of Article 3 of  
10 Chapter 48 of the General Statutes, including the right to consent to the  
11 adoption of the juvenile.

12 ...."

13 SECTION 3. G.S. 7B-4002 reads as rewritten:

14 "**§ 7B-4002. Implementation of the Compact.**

15 (a) The North Carolina State Council for Interstate Juvenile Supervision is hereby  
16 established. ~~The Secretary of the Department of Juvenile Justice and Delinquency Prevention,~~  
17 Secretary of Public Safety, or the Secretary's designee, shall serve as the Compact  
18 Administrator for the State of North Carolina and as North Carolina's Commissioner to the  
19 Interstate Commission. ~~The Secretary of the Department of Juvenile Justice and Delinquency~~  
20 Prevention, Secretary of Public Safety, or the Secretary's designee, is a member of the State  
21 Council and serves as chairperson of the State Council. In addition to the chairperson, the State  
22 Council shall consist of 10 members as follows:

- 23 (1) One member representing the executive branch, to be appointed by the  
24 Governor;  
25 (2) One member from a victim's assistance group, to be appointed by the  
26 Governor;  
27 (3) One at-large member, to be appointed by the Governor;  
28 (4) One member of the Senate, to be appointed by the President Pro Tempore of  
29 the Senate;  
30 (5) One member of the House of Representatives, to be appointed by the  
31 Speaker of the House of Representatives;  
32 (6) A district court judge, to be appointed by the Chief Justice of the Supreme  
33 Court; and  
34 (7) Four members representing the juvenile court counselors, to be appointed by  
35 ~~the Secretary of the Department of Juvenile Justice and Delinquency~~  
36 Prevention, Secretary of Public Safety.

37 (b) The State Council shall meet at least twice a year and may also hold special  
38 meetings at the call of the chairperson. All terms are for three years.

39 (c) The State Council may advise the Compact Administrator on participation in the  
40 Interstate Commission activities and administration of the Compact.

41 (d) The members of the State Council shall serve without compensation but shall be  
42 reimbursed for necessary travel and subsistence expenses in accordance with the policies of the  
43 Office of State Budget and Management.

44 (e) The State Council shall act in an advisory capacity to the ~~Secretary of the~~  
45 Department of Juvenile Justice and Delinquency Prevention Secretary of Public Safety  
46 concerning this State's participation in Interstate Commission activities and other duties as may  
47 be determined by each member state, including recommendations for policy concerning the  
48 operations and procedures of the Compact within this State.

49 (f) The Governor shall by executive order provide for any other matters necessary for  
50 implementation of the Compact at the time that it becomes effective, and, except as otherwise



1 provided for in this section, the State Council may promulgate rules or regulations necessary to  
2 implement and administer the Compact."

3 SECTION 4.(a) G.S. 14-208.6 reads as rewritten:

4 "§ 14-208.6. Definitions.

5 The following definitions apply in this Article:

6  
7 (5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree  
8 rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second  
9 degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex  
10 offense with a child; adult offender), G.S. 14-27.5 (second degree sexual  
11 offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted  
12 rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with  
13 certain victims), G.S. 14-27.7A(a) (statutory rape or sexual offense of person  
14 who is 13-, 14-, or 15-years-old where the defendant is at least six years  
15 older), G.S. 14-43.13 (subjecting or maintaining a person for sexual  
16 servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6  
17 (employing or permitting minor to assist in offenses against public morality  
18 and decency), G.S. 14-190.9(a1) (felonious indecent exposure),  
19 G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17  
20 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third  
21 degree sexual exploitation of a minor), G.S. 14-190.18 (promoting  
22 prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a  
23 minor), G.S. 14-202.1 (taking indecent liberties with children),  
24 G.S. 14-202.3 (Solicitation of child by computer or certain other electronic  
25 devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking indecent  
26 liberties with a student), G.S. 14-318.4(a1) (parent or caretaker commit or  
27 permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)  
28 (commission or allowing of sexual act upon a juvenile by parent or  
29 guardian). The term also includes the following: a solicitation or conspiracy  
30 to commit any of these offenses; aiding and abetting any of these offenses.

31 "...."

32 SECTION 4.(b) G.S. 14-208.26(a) reads as rewritten:

33 "(a) When a juvenile is adjudicated delinquent for a violation of G.S. 14-27.2 (first  
34 degree rape), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense),  
35 G.S. 14-27.5 (second degree sexual offense), or former G.S. 14-27.6 (attempted rape or sexual  
36 offense), and the juvenile was at least eleven years of age at the time of the commission of the  
37 offense, the court shall consider whether the juvenile is a danger to the community. If the court  
38 finds that the juvenile is a danger to the community, then the court shall consider whether the  
39 juvenile should be required to register with the county sheriff in accordance with this Part. The  
40 determination as to whether the juvenile is a danger to the community and whether the juvenile  
41 shall be ordered to register shall be made by the presiding judge at the dispositional hearing. If  
42 the judge rules that the juvenile is a danger to the community and that the juvenile shall  
43 register, then an order shall be entered requiring the juvenile to register. The court's findings  
44 regarding whether the juvenile is a danger to the community and whether the juvenile shall  
45 register shall be entered into the court record. No juvenile may be required to register under this  
46 Part unless the court first finds that the juvenile is a danger to the community."

47 SECTION 5.(a). G.S. 15-196.3 reads as rewritten:

48 "§ 15-196.3. Effect of credit.

49 Time creditable under this section shall reduce the minimum and maximum term of a  
50 sentence; and, irrespective of sentence, shall reduce the time required to attain privileges made  
51 available to inmates in the custody of the State-Division of Adult Correction of the Department

1 of Public Safety which are dependent, in whole or in part, upon the passage of a specific length  
2 of time in custody, including parole or post-release supervision consideration by the  
3 Post-Release Supervision and Parole Commission. However, nothing in this section shall be  
4 construed as requiring an automatic award of privileges by virtue of the passage of time."

5 **SECTION 5.(b).** G.S. 15A-821(a) reads as rewritten:

6 "(a) If a judge of a court of general jurisdiction in any other state, which by its laws has  
7 made provision for commanding a prisoner within that state to attend and testify in this State,  
8 certifies under the seal of that court that there is a criminal prosecution pending in the court or  
9 that a grand jury investigation has commenced, and that a person confined in an institution  
10 under the control of the ~~State~~-Division of Adult Correction of the Department of Public Safety  
11 of North Carolina, other than a person confined as criminally insane, is a material witness in the  
12 prosecution or investigation and that his presence is required for a specified number of days,  
13 upon presentment of the certificate to a superior court judge in the superior court district or set  
14 of districts as defined in G.S. 7A-41.1 where the person is confined, upon notice to the  
15 Attorney General, the judge must fix a time and place for a hearing and order the person having  
16 custody of the prisoner to produce him at the hearing."

17 **SECTION 5.(c).** G.S. 66-58(b) reads as rewritten:

18 "(b) The provisions of subsection (a) of this section shall not apply to:

19 ....

20 (15) The ~~State~~-Division of Adult Correction of the Department of Public Safety is  
21 authorized to purchase and install automobile license tag plant equipment for  
22 the purpose of manufacturing license tags for the State and local  
23 governments and for such other purposes as the Division may direct.

24 The Commissioner of Motor Vehicles, or such other authority as may  
25 exercise the authority to purchase automobile license tags is hereby directed  
26 to purchase from, and to contract with, the ~~State~~-Division of Adult  
27 Correction of the Department of Public Safety for the State automobile  
28 license tag requirements from year to year.

29 The price to be paid to the ~~State~~-Division of Adult Correction of the  
30 Department of Public Safety for the tags shall be fixed and agreed upon by  
31 the Governor, the ~~State~~-Division of Adult Correction of the Department of  
32 Public Safety, and the Motor Vehicle Commissioner, or such authority as  
33 may be authorized to purchase the supplies.

34 ...."

35 **SECTION 5.(d).** G.S. 148-6 reads as rewritten:

36 **"§ 148-6. Custody, employment and hiring out of convicts.**

37 The ~~State~~-Division of Adult Correction of the Department of Public Safety shall provide for  
38 receiving, and keeping in custody until discharged by law, all such convicts as may be now  
39 confined in the prison and such as may be hereafter sentenced to imprisonment therein by the  
40 several courts of this State. The Division shall have full power and authority to provide for  
41 employment of such convicts, either in the prison or on farms leased or owned by the State of  
42 North Carolina, or elsewhere, or otherwise; and may contract for the hire or employment of any  
43 able-bodied convicts upon such terms as may be just and fair, but such convicts so hired, or  
44 employed, shall remain under the actual management, control and care of the Division."

45 **SECTION 5.(e).** This section is repealed if any of the following bills become law:  
46 House Bill 969, 2011 Regular Session, Senate Bill 880, 2011 Regular Session, or Senate Bill  
47 881, 2011 Regular Session.

48 **SECTION 6.** G.S. 15A-101.1 reads as rewritten:

49 **"§ 15A-101.1. Electronic technology in criminal process and procedure.**

1 As used in this Chapter, in Chapter 7A of the General Statutes, in Chapter 15 of the General  
2 Statutes, and in all other provisions of the General Statutes that deal with criminal process or  
3 procedure:

4 ....

5 (3a) "Electronic monitoring" or "electronically monitor" or "satellite-based  
6 monitoring" means monitoring with an electronic monitoring device that is  
7 not removed from a person's body, that is utilized by the supervising agency  
8 in conjunction with a Web-based computer system that actively monitors,  
9 identifies, tracks, and records a person's location at least once every minute  
10 24 hours a day, that has a battery life of at least 48 hours without being  
11 recharged, that timely records and reports or records the person's presence  
12 near or within a crime scene or prohibited area or the person's departure  
13 from a specified geographic location, and that has incorporated into the  
14 software the ability to automatically compare crime scene data with  
15 locations of all ~~person's~~ persons being electronically monitored so as to  
16 provide any correlation daily or in real time. In areas of the State where lack  
17 of cellular coverage requires the use of an alternative device, the supervising  
18 agency shall use an alternative device that works in concert with the  
19 software and records location and tracking data for later download and crime  
20 scene comparison.

21 ...."

22 **SECTION 7.(a).** G.S. 15A-1344(c) reads as rewritten:

23 "(c) Procedure on Altering or Revoking Probation; Returning Probationer to District  
24 Where Sentenced. — When a judge reduces, terminates, extends, modifies, or revokes  
25 probation outside the county where the judgment was entered, the clerk must send a copy of the  
26 order and any other records to the court where probation was originally imposed. A court on its  
27 own motion may return the probationer to the district court district as defined in G.S. 7A-133 or  
28 superior court district or set of districts as defined in G.S. 7A-41.1, as the case may be, where  
29 probation was imposed or where the probationer resides for reduction, termination,  
30 continuation, extension, modification, or revocation of probation. In cases where the probation  
31 is revoked in a county other than the county of original conviction the clerk in that county must  
32 issue a commitment order and must file the order revoking probation and the commitment  
33 order, which will constitute sufficient permanent record of the proceeding in that court, and  
34 must send a certified copy of the order revoking probation, the commitment order, and all other  
35 records pertaining thereto to the county of original conviction to be filed with the original  
36 records. The clerk in the county other than the county of original conviction must issue the  
37 formal commitment to the ~~North Carolina~~ Division of Adult Correction of the Department of  
38 Public Safety.

39 **SECTION 7.(b).** G.S. 15A-1344(d) and (e) read as rewritten:

40 "(d) Extension and Modification; Response to Violations. — At any time prior to the  
41 expiration or termination of the probation period or in accordance with subsection (f) of this  
42 section, the court may after notice and hearing and for good cause shown extend the period of  
43 probation up to the maximum allowed under G.S. 15A-1342(a) and may modify the conditions  
44 of probation. A hearing extending or modifying probation may be held in the absence of ~~the~~  
45 ~~defendant, if he~~ defendant who fails to appear for the hearing after a reasonable effort to notify  
46 ~~him~~ the defendant. If a probationer violates a condition of probation at any time prior to the  
47 expiration or termination of the period of probation, the court, in accordance with the  
48 provisions of G.S. 15A-1345, may continue ~~him~~ the defendant on probation, with or without  
49 modifying the conditions, may place the defendant on special probation as provided in  
50 subsection (e), or, if continuation, modification, or special probation is not appropriate, may  
51 revoke the probation and activate the suspended sentence imposed at the time of initial

1 sentencing, if any, or may order that charges as to which prosecution has been deferred be  
2 brought to trial; provided that probation may not be revoked solely for conviction of a Class 3  
3 misdemeanor. The court, before activating a sentence to imprisonment established when the  
4 defendant was placed on probation, may reduce the sentence, but the reduction shall be  
5 consistent with subsection (d1) of this section. A sentence activated upon revocation of  
6 probation commences on the day probation is revoked and runs concurrently with any other  
7 period of probation, parole, or imprisonment to which the defendant is subject during that  
8 period unless the revoking judge specifies that it is to run consecutively with the other period.

9 (e) Special Probation in Response to Violation. — When a defendant has violated a  
10 condition of probation, the court may modify ~~his~~the probation to place ~~him~~the defendant on  
11 special probation as provided in this subsection. In placing ~~him~~the defendant on special  
12 probation, the court may continue or modify the conditions of ~~his~~ probation and in addition  
13 require that ~~he~~the defendant submit to a period or periods of imprisonment, either continuous  
14 or noncontinuous, at whatever time or intervals within the period of probation the court  
15 determines. In addition to any other conditions of probation which the court may impose, the  
16 court shall impose, when imposing a period or periods of imprisonment as a condition of  
17 special probation, the condition that the defendant obey the ~~Rules and Regulations~~rules and  
18 regulations of the Division of Adult Correction of the Department of Public Safety governing  
19 conduct of inmates, and this condition shall apply to the defendant whether or not the court  
20 imposes it as a part of the written order. If imprisonment is for continuous periods, the  
21 confinement may be in either the custody of the Division of Adult Correction of the  
22 Department of Public Safety or a local confinement facility. Noncontinuous periods of  
23 imprisonment under special probation may only be served in a designated local confinement or  
24 treatment facility. Except for probationary sentences for impaired driving under G.S. 20-138.1,  
25 the total of all periods of confinement imposed as an incident of special probation, but not  
26 including an activated suspended sentence, may not exceed one-fourth the maximum sentence  
27 of imprisonment imposed for the offense. For probationary sentences for impaired driving  
28 under G.S. 20-138.1, the total of all periods of confinement imposed as an incident of special  
29 probation, but not including an activated suspended sentence, shall not exceed one-fourth the  
30 maximum penalty allowed by law. No confinement other than an activated suspended sentence  
31 may be required beyond the period of probation or beyond two years of the time the special  
32 probation is imposed, whichever comes first."

33 SECTION 7.(c). Subsection (a) of this section is repealed if any of the following  
34 bills become law: House Bill 969, 2011 Regular Session, Senate Bill 880, 2011 Regular  
35 Session, or Senate Bill 881, 2011 Regular Session.

36 SECTION 8. G.S. 20-9(d) is repealed.

37 SECTION 9. G.S. 20-141(j2) reads as rewritten:

38 "(j2) A person who drives a motor vehicle in a highway work zone at a speed greater than  
39 the speed limit set and posted under this section shall be required to pay a penalty of two  
40 hundred fifty dollars (\$250.00). This penalty shall be imposed in addition to those penalties  
41 established in this Chapter. A "highway work zone" is the area between the first sign that  
42 informs motorists of the existence of a work zone on a highway and the last sign that informs  
43 motorists of the end of the work zone. The additional penalty imposed by this subsection  
44 applies only if ~~sign~~signs are posted at the beginning and end of any segment of the highway  
45 work zone stating the penalty for speeding in that segment of the work zone. The Secretary  
46 shall ensure that work zones shall only be posted with penalty signs if the Secretary determines,  
47 after engineering review, that the posting is necessary to ensure the safety of the traveling  
48 public due to a hazardous condition.

49 A law enforcement officer issuing a citation for a violation of this section while in a  
50 highway work zone shall indicate the vehicle speed and speed limit posted in the segment of  
51 the work zone, and determine whether the individual committed a violation of G.S. 20-141(j1).

1 Upon an individual's conviction of a violation of this section while in a highway work zone, the  
2 clerk of court shall report that the vehicle was in a work zone at the time of the violation, the  
3 vehicle speed, and the speed limit of the work zone to the Division of Motor Vehicles."

4 **SECTION 10.** G.S. 20-146.2(a) reads as rewritten:

5 "(a) HOV Lanes. – The Department of Transportation may designate one or more travel  
6 lanes as high occupancy vehicle (HOV) lanes on streets and highways on the State Highway  
7 System and cities may designate one or more travel lanes as high occupancy vehicle (HOV)  
8 lanes on streets on the Municipal Street System. HOV lanes shall be reserved for vehicles with  
9 a specified number of passengers as determined by the Department of Transportation or the city  
10 having jurisdiction over the street or highway. When HOV lanes have been designated, and  
11 have been appropriately marked with signs or other markers, they shall be reserved for  
12 privately or publicly operated buses, and automobiles or other vehicles containing the specified  
13 number of persons. Where access restrictions are applied on HOV lanes through designated  
14 signing and pavement markings, vehicles shall only cross into or out of an HOV lane at  
15 designated openings. A motor vehicle shall not travel in a designated HOV lane if the motor  
16 vehicle has more than three axles, regardless of the number of occupants. HOV lane restrictions  
17 shall not apply to any of the following:

18 ....  
19 (6) Fuel cell electric vehicles as defined in ~~G.S. 29-4.01(12a)~~,  
20 G.S. 20-4.01(12a), regardless of the number of passengers in the vehicle.  
21 These vehicles must be able to travel at the posted speed limit while  
22 operating in the HOV lane."

23 **SECTION 11.** Article 11 of Chapter 25 of the General Statutes is repealed.

24 **SECTION 12.** G.S. 28A-2-4(a) reads as rewritten:

25 "(a) The clerks of superior court of this State, as ex officio judges of probate, shall have  
26 original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this  
27 subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings  
28 include, but are not limited to, the following:

29 ....  
30 (4) Proceedings to ascertain heirs or devisees, to approve ~~family~~-settlement  
31 agreements pursuant to G.S. 28A-2-10, to determine questions of  
32 construction of wills, to determine priority among creditors, to determine  
33 whether a person is in possession of property belonging to an estate, to order  
34 the recovery of property of the estate in possession of third parties, and to  
35 determine the existence or nonexistence of any immunity, power, privilege,  
36 duty, or right. Any party or the clerk of superior court may file a notice of  
37 transfer of a proceeding pursuant to this subdivision to the Superior Court  
38 Division of the General Court of Justice as provided in G.S. 28A-2-6(h). In  
39 the absence of a transfer to superior court, Article 26 of Chapter 1 of the  
40 General Statutes shall apply to a trust proceeding pending before the clerk of  
41 superior court to the extent consistent with this Article."

42 **SECTION 13.(a)** G.S. 28A-5-1(b) reads as rewritten:

43 "(b) Implied Renunciation by Executor. – If any person named or designated as executor  
44 fails to qualify or to renounce within 30 days after the will had been admitted to probate, (i) the  
45 clerk of superior court may issue a notice to that person to qualify or move for an extension of  
46 time to qualify within 15 days, or (ii) any other person named or designated as executor in the  
47 will or any interested person may file a petition in accordance with Article 2 of this Chapter for  
48 an order finding that person named or designated as executor to be deemed to have renounced.  
49 If that person does not file a response to the ~~motion-notice~~ or petition within 15 days from the  
50 date of service of the ~~motion-notice~~ or petition, the clerk of superior court shall enter an order  
51 adjudging that the person has renounced. If the person files a response within 15 days from the

1 date of service of the ~~motion-notice~~ or petition requesting an extension of time within which to  
 2 qualify or renounce, upon hearing, the clerk of superior court may grant to that person a  
 3 reasonable extension of time within which to qualify or renounce for cause shown. If that  
 4 person qualifies within 15 days of the date of service of the ~~motion-notice~~ or petition, the clerk  
 5 of superior court shall dismiss that ~~motion-notice~~ or petition, without prejudice, summarily and  
 6 without hearing."

7 **SECTION 13.(b)** G.S. 28A-5-2(b) reads as rewritten:

8 "(b) **Implied Renunciation.** –

9 (1) If any person entitled to apply for letters of administration fails to apply  
 10 therefor within 30 days from the date of death of the intestate, (i) the clerk of  
 11 superior court may issue a notice to the person to qualify or move for an  
 12 extension of time to qualify within 15 days, or (ii) any interested person may  
 13 file a petition in accordance with Article 2 of this Chapter for an order  
 14 finding that person to be deemed to have renounced. If the person does not  
 15 file a response to the notice or petition within 15 days from the date of  
 16 service of the ~~motion,notice or petition~~, the clerk of superior court shall enter  
 17 an order adjudging that the person has renounced. If the person files a  
 18 response within 15 days from the date of service of the ~~motion-notice or~~  
 19 ~~petition~~ requesting an extension of time within which to qualify or renounce,  
 20 upon hearing, the clerk of superior court may grant to that person a  
 21 reasonable extension of time within which to qualify or renounce for cause  
 22 shown. If the person qualifies within 15 days of the date of service of the  
 23 ~~motion,notice or petition~~, the clerk of superior court shall dismiss the  
 24 ~~motion,notice or petition~~, without prejudice, summarily and without hearing  
 25 and the clerk of superior court shall issue letters to some other person as  
 26 provided in G.S. 28A-4-1. No notice shall be required to be given to any  
 27 interested person, but the clerk may give notice as the clerk in the clerk's  
 28 discretion may determine.

29 ...."

30 **SECTION 14.** The catch line of G.S. 30-30 reads as rewritten:

31 "**§ 30-30. Judgment and order for commissioners. Judgment.**"

32 **SECTION 15.** G.S. 44A-24.2 reads as rewritten:

33 "**§ 44A-24.2. Definitions.**

34 The following definitions apply in this Part:

35 ....

36 (3) **Commercial real estate.** – Any real property or interest therein, whether  
 37 freehold or nonfreehold, which at the time the property or interest is made  
 38 the subject of an agreement for broker services:

- 39 a. Is lawfully used primarily for sales, office, research, institutional,  
 40 warehouse, manufacturing, industrial, or mining purposes or for  
 41 multifamily residential purposes involving five or more dwelling  
 42 units;
- 43 b. May lawfully be used for any of the purposes listed in ~~subdivision (3)~~  
 44 sub-subdivision (3)a. of this section by a zoning ordinance adopted  
 45 pursuant to the provisions of Article 18 of Chapter 153A or Article  
 46 19 of Chapter 160A of the General Statutes or which is the subject of  
 47 an official application or petition to amend the applicable zoning  
 48 ordinance to permit any of the uses listed in ~~subdivision (3)~~  
 49 sub-subdivision (3)a. of this section which is under consideration by  
 50 the government agency with authority to approve the amendment; or

- 1 c. Is in good faith intended to be immediately used for any of the  
2 purposes listed in ~~subdivision (3)~~ sub-subdivision (3)a. of this section  
3 by the parties to any contract, lease, option, or offer to make any  
4 contract, lease, or option.

5 ...."

6 **SECTION 16.** G.S. 62-36A is recodified as G.S. 62-36.1.

7 **SECTION 17.** G.S. 63A-3(b) reads as rewritten:

8 "(b) Board of Directors. – The Authority shall be governed by a Board of Directors. The  
9 Board shall consist of at least the following 20 members:

- 10 (1) Six members appointed by the Governor. One member shall be  
11 representative of the economic development industry, two members shall be  
12 representative of the commercial real estate development industry, two  
13 members shall be representative of the banking and finance industry, and  
14 one member shall be representative of environmental interests. Of the  
15 Governor's six appointments, at least one member shall come from each of  
16 the State's three regions: Western, Piedmont, and Eastern.

17 ...."

18 **SECTION 18.** G.S. 63A-24 reads as rewritten:

19 **"§ 63A-24. General laws apply to Authority; exceptions.**

20 (a) Except as provided in this section, the general laws that apply to State agencies apply to  
21 the Authority. The following general laws, to the extent provided below, do not apply to the  
22 Authority:

23 ....

- 24 (3) Except for G.S. 146-29.1, 146-79, and 146-80, Chapter 146 of the General  
25 Statutes does not apply to the Authority.

26 (b) ~~Notwithstanding this exemption from Chapter 146 of the General Statutes,~~  
27 G.S. 126-5(c1)(15), the Secretary of Transportation may designate employees of the Authority  
28 as subject to Chapter ~~146~~ 126 of the General Statutes."

29 **SECTION 19.** G.S. 101-5(f) reads as rewritten:

30 "(f) If the clerk finds that good and sufficient reasons exist to deny the applicant's  
31 request for a name change, it is the clerk's duty not to issue an order changing the name of the  
32 applicant from that person's true name to the name sought to be adopted. The order denying the  
33 name change shall state the reasons for the denial. If the applicant desires to appeal the clerk's  
34 decision, the applicant must petition the chief resident superior court judge within 30 days of  
35 the date of the order denying the name change to request a reconsideration of the application.  
36 The reconsideration decision of the chief resident superior court judge is final and not subject  
37 to appeal. An unsuccessful applicant on reconsideration is subject to a waiting period of 12  
38 months from the date of the adverse decision of the chief resident superior court judge before  
39 the applicant may submit another name change application. A successful applicant on  
40 reconsideration shall be granted the name change by the clerk in like manner as prescribed by  
41 subsection (d) of this section."

42 **SECTION 20.(a)** The catch line of G.S. 105-187.70 reads as rewritten:

43 **"§ 105-187.70. (Effective July 1, 2013) Department to comply with ~~Article 4~~ Article 3 of**  
44 **Chapter 62A of the General Statutes."**

45 **SECTION 20.(b)** This section is effective July 1, 2013. This section is repealed if  
46 Senate Bill 826, 2011 Regular Session, becomes law.

47 **SECTION 21.(a).** G.S. 115C-325(p) reads as rewritten:

48 "(p) Section Applicable to Certain Institutions. – Notwithstanding any law or regulation  
49 to the contrary, this section shall apply to all persons employed in teaching and related  
50 educational classes in the schools and institutions of the Departments of Health and Human  
51 ~~Services, Services and Public Instruction, Correction, or Juvenile Justice and Delinquency~~

1 ~~Prevention [the Division of Juvenile Justice of the Department of Public Safety]~~ Instruction and  
 2 the Divisions of Juvenile Justice and Adult Correction of the Department of Public Safety  
 3 regardless of the age of the students."

4 **SECTION 21.(b).** If House Bill 969, 2011 Regular Session, becomes law and, as  
 5 enacted, contains the amendment to G.S. 115C-325(p) that appears in Section 42 of the first  
 6 edition of that bill, that amendment is repealed. If Senate Bill 880, 2011 Regular Session,  
 7 becomes law, and, as enacted, contains the amendment to G.S. 115C-325(p) that in appears in  
 8 Section 41 of the first edition of that bill, that amendment is repealed. If Senate Bill 881, 2011  
 9 Regular Session, becomes law, Section 40 of that act is repealed.

10 **SECTION 22.(a)** G.S. 120-30.9F reads as rewritten:  
 11 "**§ 120-30.9F. Municipalities; municipal attorney.**

12 The municipal attorney of any municipality covered by the Voting Rights Act of 1965 shall  
 13 submit to the Attorney General of the United States within 30 days:

- 14 (1) Of the time they become laws, any local acts of the General Assembly; and  
 15 (2) Of adoption actions of the municipal governing body or ~~board of elections or~~  
 16 any other municipal agency or county board of elections which constitutes a  
 17 "change affecting voting" under Section 5 of the Voting Rights Act of 1965  
 18 in that municipality; provided that, if required or allowed by regulations or  
 19 practices of the United States Department of Justice, a municipal attorney  
 20 may delay submission of any annexation ordinance or group of ordinances  
 21 until all previously submitted annexation ordinances have been precleared or  
 22 otherwise received final disposition."

23 **SECTION 22.(b)** G.S. 163-304 reads as rewritten:

24 "**§ 163-304. State Board of Elections to have jurisdiction over municipal elections and**  
 25 **election—officials, elections, and to advise; emergency and ongoing**  
 26 **administration by county board.**

27 (a) Authority and Duty of State Board. – The State Board of Elections shall have the  
 28 same authority over municipal elections ~~and election officials~~ as it has over county and State  
 29 ~~elections and election officials.~~ elections. The State Board of Elections shall advise and assist  
 30 cities, towns, incorporated villages and special districts, their members and legal officers on the  
 31 conduct and administration of their elections and registration procedure.

32 The county boards of elections shall be governed by the same rules for settling  
 33 controversies with respect to counting ballots or certification of the returns of the vote in any  
 34 municipal or special district election as are in effect for settling such controversies in county  
 35 and State elections.

36 (b) through (e) Repealed by Session Laws 2011-31, s. 25, effective April 7, 2011."

37 **SECTION 23.** G.S. 120-70.94(a) reads as rewritten:

38 "(a) The Joint Legislative Oversight Committee on Justice and Public Safety shall  
 39 examine, on a continuing basis, the correctional, law enforcement, and juvenile justice systems  
 40 in North Carolina, in order to make ongoing recommendations to the General Assembly on  
 41 ways to improve those systems and to assist those systems in realizing their objectives of  
 42 protecting the public and of punishing and rehabilitating offenders. In this examination, the  
 43 Committee shall:

- 44 (1) Study the budget, programs, and policies of the ~~Departments of Correction,~~  
 45 ~~Crime Control and Public Safety, and Juvenile Justice and Delinquency~~  
 46 ~~Prevention~~ Department of Public Safety to determine ways in which the  
 47 General Assembly may improve the effectiveness of ~~those Departments~~ the  
 48 Department.

49 ....

- 50 (10) Study the needs of juveniles. This study may include, but is not limited to:  
 51 a. Determining the adequacy and appropriateness of services:



- 1 1. To children and youth receiving child welfare services;
- 2 2. To children and youth in the juvenile court system;
- 3 3. Provided by the Division of Social Services of the
- 4 Department of Health and Human Services and the Division
- 5 of Juvenile Justice of the Department of Public Safety;
- 6 4. To children and youth served by the Mental Health,
- 7 Developmental Disabilities, and Substance Abuse Services
- 8 system.
- 9 b. Developing methods for identifying and providing services to
- 10 children and youth not receiving but in need of child welfare
- 11 services, children and youth at risk of entering the juvenile court
- 12 system, and children and youth exposed to domestic violence
- 13 situations.
- 14 c. Identifying obstacles to ensuring that children who are in secure or
- 15 nonsecure custody are placed in safe and permanent homes within a
- 16 reasonable period of time and recommending strategies for
- 17 overcoming those obstacles. The Commission shall consider what, if
- 18 anything, can be done to expedite the adjudication and appeal of
- 19 abuse and neglect charges against parents so that decisions may be
- 20 made about the safe and permanent placement of their children as
- 21 quickly as possible.

22 ...."

23 **SECTION 24.** G.S. 122A-3 reads as rewritten:

24 **"§ 122A-3. Definitions.**

25 The following definitions apply in this ~~section~~Chapter:

- 26 (1) Agency. – The North Carolina Housing Finance Agency created by this
- 27 Chapter.
- 28 (2) Bonds or notes. – The bonds or the bond anticipation notes or construction
- 29 loan notes authorized to be issued by the Agency under this Chapter.
- 30 (3) Counseling agency. – A nonprofit counseling agency located in North
- 31 Carolina that is approved by the North Carolina Housing Finance Agency.
- 32 (4) Energy conservation loan. – A loan obtained from a mortgage lender for the
- 33 purpose of satisfying an existing obligation of a borrower who is the resident
- 34 owner of a single-family dwelling or of "residential housing." The existing
- 35 obligation of the owner in an "energy conservation loan" must have been
- 36 incurred to pay for the purchase of materials or the installation of materials,
- 37 or both, which results in a significant decrease in the amount of consumption
- 38 of nonrenewable sources of energy in order to provide or maintain a
- 39 comfortable level of room temperatures in his residence during the winter.
- 40 "Energy conservation loan" does not include a loan obtained to refinance an
- 41 existing loan agreement unless payment or collection of the original loan
- 42 was guaranteed by the Agency.
- 43 (5) Federally insured securities. – An evidence of indebtedness secured by a first
- 44 mortgage lien on residential housing for persons of lower income and
- 45 insured or guaranteed as to repayment of principal and interest by the United
- 46 States or any agency or instrumentality thereof.
- 47 (6) Governmental agency. – Any department, division, public agency, political
- 48 subdivision, or other public instrumentality of the State, the federal
- 49 government, any other State or public agency, or any two or more thereof.
- 50 (7) Mortgage or mortgage loan. – A mortgage loan for residential housing,
- 51 including, without limitation, a mortgage loan to finance, either temporarily

1 or permanently, the construction, rehabilitation, improvement, or acquisition  
 2 and rehabilitation or improvement of residential housing and a mortgage  
 3 loan insured or guaranteed by the United States or an instrumentality thereof  
 4 or for which there is a commitment by the United States or an  
 5 instrumentality thereof to insure such a mortgage. A mortgage obligation  
 6 may be evidenced by a security document and secured by a lien upon real  
 7 property, including a deed of trust and land sale agreement. Mortgage also  
 8 means an obligation evidenced by a security lien on real property upon  
 9 which an owner-occupied mobile home is located.

10 (8) Mortgage lenders. – Any bank or trust company, savings bank, national  
 11 banking association, savings and loan association, or building and loan  
 12 association, life insurance company, mortgage banking company, the federal  
 13 government, and any other financial institution authorized to transact  
 14 business in the State.

15 (9) Mortgagee. – The owner of a beneficial interest in a mortgage loan, the  
 16 servicer for the owner of a beneficial interest in a mortgage loan, or the  
 17 trustee for a securitized trust that holds title to a beneficial interest in a  
 18 mortgage loan.

19 (10) Obligations. – Any bonds or bond anticipation notes authorized to be issued  
 20 by the Agency under the provisions of this Chapter.

21 (11) Persons and families of lower income. – Persons and families deemed by the  
 22 Agency to require such assistance as is made available by this Chapter on  
 23 account of insufficient personal or family income, taking into consideration,  
 24 without limitation, (i) the amount of the total income of such persons and  
 25 families available for housing needs, (ii) the size of the family, (iii) the cost  
 26 and condition of housing facilities available, (iv) the eligibility of such  
 27 persons and families for federal housing assistance of any type predicated  
 28 upon a lower-income basis, and (v) the ability of such persons and families  
 29 to compete successfully in the normal housing market and to pay the  
 30 amounts at which private enterprise is providing decent, safe, and sanitary  
 31 housing and deemed by the Agency therefore to be eligible to occupy  
 32 residential housing financed wholly or in part, with mortgages, or with other  
 33 public or private assistance.

34 (12) Rehabilitation. – The renovation or improvement of residential housing by  
 35 the owner of said residential housing.

36 (13) Residential housing. – A specific work or improvement undertaken primarily  
 37 to provide dwelling accommodations for persons and families of lower  
 38 income, including the rehabilitation of buildings and improvements, and  
 39 such other nonhousing facilities as may be incidental or appurtenant thereto.

40 (14) State. – The State of North Carolina."

41 **SECTION 25.** G.S. 126-3(b) reads as rewritten:

42 "(b) The Office shall be responsible for the following activities, and such other activities  
 43 as specified in this Chapter:

44 (1) Providing policy and rule development for the Commission and  
 45 implementing and administering all policies, rules, and procedures  
 46 established by the ~~Commission~~; Commission.

47 (2) Providing training in personnel management to agencies, departments, and  
 48 institutions including train-the-trainer programs for those agencies,  
 49 departments, and institutions who request such training and where sufficient  
 50 staff and expertise exist to provide the training within their respective  
 51 agencies, departments, and ~~institutions~~; institutions.

- 1 (3) Providing technical assistance in the management of personnel programs and  
 2 activities to agencies, departments, and ~~institutions;~~institutions.  
 3 (4) Negotiating decentralization agreements with all agencies, departments, and  
 4 institutions where it is cost-effective to include delegation of authority for  
 5 certain classification and corresponding salary administration actions and  
 6 other personnel programs to be specified in the ~~agreements;~~agreements.  
 7 (5) Administering such centralized programs and providing services as approved  
 8 by the Commission which have not been transferred to agencies,  
 9 departments, and institutions or where this authority has been rescinded for  
 10 ~~noncompliance;~~noncompliance.  
 11 (6) Providing approval authority of personnel actions involving classification  
 12 and compensation where such approval authority has not been transferred by  
 13 the Commission to agencies, departments, and institutions or where such  
 14 authority has been rescinded for ~~noncompliance;~~noncompliance.  
 15 (7) Maintaining a computer database of all relevant and necessary information  
 16 on employees and positions within agencies, departments, and institutions in  
 17 the State's personnel ~~system;~~system.  
 18 (8) Developing criteria and standards to measure the level of compliance or  
 19 noncompliance with established Commission policies, rules, procedures,  
 20 criteria, and standards in agencies, departments, and institutions to which  
 21 authority has been delegated for classification, salary administration and  
 22 other decentralized programs, and determining through routine monitoring  
 23 and periodic review process, that agencies, departments, and institutions are  
 24 in compliance or noncompliance with established Commission policies,  
 25 rules, procedures, criteria, and ~~standards;~~and standards.  
 26 (9) Implementing corrective actions in cases of ~~noncompliance;~~ ~~[and]~~  
 27 noncompliance.  
 28 (10) Administering the State employee suggestion program (NC-Thinks)."

29 **SECTION 26.** G.S. 127A-110(f) reads as rewritten:

- 30 "(f) (1) Any amount obtained by any person by settlement with, judgment against, or  
 31 otherwise from the third party by reason of the injury or death shall be  
 32 disbursed by order of the court for the following purposes and in the  
 33 following order of priority:  
 34 a. First to the payment of actual court costs taxed by judgment.  
 35 b. Second to the payment of the fee of the attorney representing the  
 36 person making settlement or obtaining judgment, and this fee shall  
 37 not exceed one third of the amount obtained or recovered of the third  
 38 party.  
 39 c. Third to the reimbursement of the State for all benefits by way of  
 40 compensation or medical treatment expense paid or to be paid by the  
 41 State pursuant to G.S. 127A-108.  
 42 d. Fourth to the payment of any amount remaining to the member or  
 43 personal representative.  
 44 (2) The attorney fee paid under subdivision (1) of this ~~section-subsection~~ shall  
 45 be paid by the member and the State in direct proportion to the amount each  
 46 shall receive under sub-subdivisions (1)c. and d. of this subsection and shall  
 47 be deducted from the payments when distribution is made."

48 **SECTION 27.** G.S. 130A-40.1(b) reads as rewritten:

- 49 "(b) The Secretary of Health and Human Services may approve only one request under  
 50 subsection (a) of this section, this section being designed as a pilot program concerning  
 51 alternative qualifications for a local health director. The Secretary of Health and Human

1 Services shall report any approval under this section to the Joint Legislative Oversight  
2 Committee on Health and Human Services."

3 **SECTION 28.** G.S. 130A-309.10(e) reads as rewritten:

4 "(e) No person shall distribute, sell, or offer for sale in this State any rigid plastic  
5 container, including a plastic beverage ~~container~~ container, unless the container has a molded  
6 label indicating the plastic resin used to produce the container. The code shall consist of a  
7 number placed within three triangulated arrows and letters placed below the triangulated  
8 arrows. The three arrows shall form an equilateral triangle with the common point of each line  
9 forming each angle of the triangle at the midpoint of each arrow and rounded with a short  
10 radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle with a  
11 short gap separating the arrowhead from the base of the adjacent arrow. The triangle formed by  
12 the three arrows curved at their midpoints shall depict a clockwise path around the code  
13 number. The label shall appear on or near the bottom of the container and be clearly visible. A  
14 container having a capacity of less than eight fluid ounces or more than five gallons is exempt  
15 from the requirements of this subsection. The numbers and letters shall be as follows:

- 16 (1) For polyethylene terephthalate, the letters "PETE" and the number 1.
- 17 (2) For high density polyethylene, the letters "HDPE" and the number 2.
- 18 (3) For vinyl, the letter "V" and the number 3.
- 19 (4) For low density polyethylene, the letters "LDPE" and the number 4.
- 20 (5) For polypropylene, the letters "PP" and the number 5.
- 21 (6) For polystyrene, the letters "PS" and the number 6.
- 22 (7) For any other, the letters "OTHER" and the number 7."

23 **SECTION 29.** G.S. 131E-129(a) reads as rewritten:

24 "(a) **Violation Classification and Penalties.** – The Department of Health and Human  
25 Services shall impose an administrative penalty in accordance with provisions of this Article on  
26 any facility which is found to be in violation of the requirements of G.S. 131E-117 or  
27 applicable State and federal laws and regulations. Citations for violations shall be classified and  
28 penalties assessed according to the nature of the violation as follows:

- 29 ....
- 30 (1b) "Past Corrected Type A1 or Type A2 Violation" means either (i) the  
31 violation was not previously identified by the Department or its authorized  
32 representative or (ii) the violation was discovered by the facility and was self  
33 reported, but in either case the violation has been corrected. In determining  
34 whether a penalty should be assessed under this section, the Department  
35 shall consider the following factors:
- 36 a. Preventive systems in place prior to the violation.
  - 37 b. Whether the violation or violations were abated immediately. ~~and~~
  - 38 c. Whether the facility implemented corrective measures to achieve and  
39 maintain compliance.
  - 40 d. Whether the facility's system to ensure compliance is maintained and  
41 continues to be implemented.
  - 42 e. Whether the regulatory area remains in compliance.

43 ...."

44 **SECTION 30.** G.S. 135-48.27 reads as rewritten:

45 "**§ 135-48.27. Reports to the General Assembly; General Assembly access to information.**

46 In addition to the reports required by ~~G.S. 135-48.22(d)~~, G.S. 135-48.23(d), the State  
47 Treasurer, the Executive Administrator, and Board of Trustees shall report to the General  
48 Assembly at such times and in such forms as shall be designated by the President Pro Tempore  
49 of the Senate and the Speaker of the House of Representatives. Employees of the Legislative  
50 Services Commission designated by the Legislative Services Officer (i) shall have access to all  
51 records related to the Plan of the State Treasurer, the Board of Trustees, the Executive

1 Administrator, the Claims Processor, and the Plan and (ii) shall be entitled to attend all  
 2 meetings, including executive sessions, of the Board of Trustees."

3 SECTION 31. G.S. 135-48.44 reads as rewritten:

4 "§ 135-48.44. Cessation of coverage.

5 (a) Coverage under this Plan of an employee and his or her surviving spouse or eligible  
 6 dependent children or of a retired employee and his or her surviving spouse or eligible  
 7 dependent children shall cease on the earliest of the following dates:

8 ...  
 9 (2) The last day of the month in which an employee's employment with the State  
 10 is terminated as provided in ~~subsection (e)~~ subsection (d) of this section.

11 ...  
 12 (c) Coverage under the Plan as a surviving dependent child whether covered as a  
 13 dependent of a surviving spouse, or as an individual member (no living parent), ceases when  
 14 the child ceases to be a dependent child as defined by G.S. 135-48.1, except coverage may  
 15 continue under the Plan on a fully contributory basis for a period of not more than 36 months  
 16 after loss of dependent status.

17 (d) Termination of employment shall mean termination for any reason, including layoff  
 18 and leave of absence, except as provided in subdivisions (a)(1) and (2) of this section, but shall  
 19 not, for purposes of this Plan, include retirement upon which the employee is granted an  
 20 immediate service or disability pension under and pursuant to a State-supported Retirement  
 21 System.

22 (1) In the event of termination for any reason other than death, coverage under  
 23 the Plan for an employee and his or her eligible spouse or dependent  
 24 children, provided the eligible spouse or dependent children were covered  
 25 under the Plan at termination of employment may be continued for a period  
 26 of not more than 18 months following termination of employment on a fully  
 27 contributory basis. Employees who were covered under the Plan at  
 28 termination of employment may be continued for a period of not more than  
 29 18 months or 29 months if determined to be disabled under the Social  
 30 Security Act, Title II, OASDI or Title XVI, SSI.

31 (2) In the event of approved leave of absence without pay, other than for active  
 32 duty in the Armed Forces of the United States, coverage under this Plan for  
 33 an employee and his or her dependents may be continued during the period  
 34 of such leave of absence by the employee's paying one hundred percent  
 35 (100%) of the cost.

36 (3) If employment is terminated in the second half of a calendar month and the  
 37 covered individual has made the required contribution for any coverage in  
 38 the following month, that coverage will be continued to the end of the  
 39 calendar month following the month in which employment was terminated.

40 (4) Employees paid for less than 12 months in a year, who are terminated at the  
 41 end of the work year and who have made contributions for the non-work  
 42 months, will continue to be covered to the end of the period for which they  
 43 have made contributions, with the understanding that if they are not  
 44 employed by another State-covered employer under this Plan at the  
 45 beginning of the next work year, the employee will refund to the  
 46 ex-employer the amount of the employer's cost paid for them during the  
 47 non-paycheck months.

48 (5) Any employee receiving benefits pursuant to Article 6 of this Chapter when  
 49 the employee has less than five years of retirement membership service, or  
 50 an employee on leave of absence without pay due to illness or injury for up  
 51 to 12 months, is entitled to continued coverage under the Plan for the

1 employee and any eligible dependents by the employee's paying one hundred  
2 percent (100%) of the cost.

3 ...."

4 **SECTION 32.** G.S. 135-48.50(1) and (5) read as rewritten:

5 **"§ 135-48.50. Coverage mandates.**

6 The Plan shall provide coverage subject to the following coverage mandates:

- 7 (1) Abortion coverage. – The Plan shall not provide coverage for abortions for  
8 which State funds could not be used under G.S. 143C-6-5.5. The Plan shall,  
9 however, provide coverage for subsequent complications or related charges  
10 arising from an abortion not covered under this subdivision. ~~Reserved.~~

11 ...

- 12 (5) ~~Reserved.~~"

13 **SECTION 33.** G.S. 143-215.1(a6) reads as rewritten:

14 "(a6) No permit shall be required to enter into a contract for the construction, installation,  
15 or alteration of any treatment works or disposal system or to construct, install, or alter any  
16 treatment works or disposal system within the State when the system's or work's ~~principle~~  
17 principal function is to conduct, treat, equalize, neutralize, stabilize, recycle, or dispose of  
18 industrial waste or sewage from an industrial facility and the discharge of the industrial waste  
19 or sewage is authorized under a permit issued for the discharge of the industrial waste or  
20 sewage into the waters of the State. Notwithstanding the above, the permit issued for the  
21 discharge may be modified if required by federal regulation."

22 **SECTION 34.** G.S. 143C-3-5 reads as rewritten:

23 **"§ 143C-3-5. Budget recommendations and budget message.**

24 ...

25 (b) Odd-Numbered Fiscal Years. – In odd-numbered years the budget recommendations  
26 shall include the following components:

27 ...

- 28 (3) A Current Operations ~~Appropriation~~ Appropriations Act that makes  
29 appropriations for each fiscal year of the upcoming biennium for the  
30 operating expenses of all State agencies as contained in the Recommended  
31 State Budget, together with a Capital Improvements Appropriations Act that  
32 authorizes any capital improvements projects.

- 33 (4) The biennial State Information Technology Plan as outlined in  
34 ~~G.S. 147-33-72B~~ G.S. 147-33.72B to be consistent in facilitating the goals  
35 outlined in the Recommended State Budget.

36 ...

37 (d) Funds Included in Budget. – Consistent with requirements of the North Carolina  
38 Constitution, Article 5, ~~Section 7(a)~~, Section 7(1), the Governor's Recommended State Budget,  
39 together with the Budget Support Document, shall include recommended expenditures of State  
40 funds from all Governmental and Proprietary Funds, as those funds are described in  
41 G.S. 143C-1-3. Except where provided otherwise by federal law, funds received from the  
42 federal government become State funds when deposited in the State treasury and shall be  
43 classified and accounted for in the Governor's budget recommendations no differently than  
44 funds from other sources.

45 ...."

46 **SECTION 35.** G.S. 153A-155(g) reads as rewritten:

47 "(g) Applicability. – Subsection (c) of this section applies to all counties and county  
48 districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of  
49 a local act, subsection (c) supersedes that provision. The remainder of this section applies only  
50 to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell,  
51 Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin,

1 Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Jackson, Madison, Martin,  
 2 McDowell, Montgomery, Moore, Nash, New Hanover, ~~New Hanover County District U,~~  
 3 Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham,  
 4 Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance,  
 5 Washington, and Wilson Counties, to New Hanover County District U, to Surry County  
 6 District S, to Watauga County District U, to Wilkes County District K, to Yadkin County  
 7 District Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township  
 8 Taxing District."

9 **SECTION 36.** G.S. 159-175.10 reads as rewritten:

10 **"§ 159-175.10. Additional requirements for review of city financing application;**  
 11 **communications service.**

12 The Commission shall apply additional requirements to an application for financing by a  
 13 city or a joint agency under Part 1 of Article 20 of Chapter 160A of the General Statutes for the  
 14 construction, operation, expansion, or repair of a communications system or other infrastructure  
 15 for the purpose of offering communications service, as that term is defined in  
 16 ~~G.S. 160A-340(2),~~G.S. 160A-340(3), that is or will be competitive with communications  
 17 service offered by a private communications service provider. This section does not apply to  
 18 the repair, rebuilding, replacement, or improvement of an existing communications network, or  
 19 equipment relating thereto, but does apply to the expansion of such existing network. The  
 20 additional requirements are the following:

- 21 (1) Prior to submitting an application to the Commission, a city or joint agency  
 22 shall comply with the provisions of G.S. 160A-340.3 requiring at least two  
 23 public hearings on the proposed communications service project and notice  
 24 of the hearings to private communications service providers who have  
 25 requested notice.
- 26 (2) At the same time the application is submitted to the Commission, the city or  
 27 joint agency shall serve a copy of the application on each person that  
 28 provides competitive communications service within the city's jurisdictional  
 29 boundaries or in areas adjacent to the city. No hearing on the application  
 30 shall be heard by the Commission until at least 60 days after the application  
 31 is submitted to the Commission.
- 32 (3) Upon the request of a communications service provider, the Commission  
 33 shall accept written and oral comments from competitive private  
 34 communications service providers in connection with any hearing or other  
 35 review of the application.
- 36 (4) In considering the probable net revenues of the proposed communications  
 37 service project, the Commission shall consider and make written findings on  
 38 the reasonableness of the city or joint agency's revenue projections in light of  
 39 the current and projected competitive environment for the services to be  
 40 provided, taking into consideration the potential impact of technological  
 41 innovation and change on the proposed service offerings and the level of  
 42 demonstrated community support for the project.
- 43 (5) The city or joint agency making the application to the Commission shall bear  
 44 the burden of persuasion with respect to subdivisions (1) through (4) of this  
 45 section."

46 **SECTION 37.** G.S. 163-258.30(a) reads as rewritten:

47 **"(a)** The State Board of Elections shall adopt rules and regulations to carry out the intent  
 48 and purpose of ~~G.S. 163-278.23 and G.S. 163-278.24~~G.S. 163-258.28 and G.S. 163-258.29 and  
 49 to ensure that a proper list of persons voting under said sections shall be maintained by the  
 50 boards of elections, and to ensure proper registration records, and such rules and regulations  
 51 shall not be subject to the provisions of Article 2A of Chapter 150B of the General Statutes."

1           **SECTION 38.** Section 6(c) of S.L. 2011-96 reads as rewritten:

2           **"SECTION 6(c)** Notwithstanding the two-year term limitation in  
3 G.S. 135-48.20(m), as enacted by Senate Bill 323 of the 2011 Regular Session, the terms of  
4 initial appointees under G.S. 135-48.20 shall be as follows and shall begin January 1, 2012:

5           (1) Two and one-half years. – Appointees under G.S. 135-48.20(i).

6           (2) Three and one-half years. – Appointees not under G.S. 135-48.20(i)."

7           **SECTION 39.** Section 19.1(g) of S.L. 2011-145, as amended by Section 43(c) of  
8 S.L. 2011-391, reads as rewritten:

9           **" SECTION 19.1.(g)** The following statutes are amended by deleting the language "Crime  
10 Control and Public Safety" wherever it appears and substituting "Public Safety":  
11 G.S. 7A-343.1, 8-50.2, 14-86.1, 14-309.7, 14-309.11, 15B-3, 15B-6, 17C-3, 17C-6,  
12 18B-101, 18B-110, 19-2.1, 20-17.7, 20-39.1, 20-49, 20-79.5, 20-81.12, 20-116, 20-118,  
13 20-119, 20-125, 20-178.1, 20-183.9, 20-183.10, 20-184, 20-185, 20-187, 20-187.1,  
14 20-187.3, 20-188, 20-189, 20-190, 20-191, 20-192, 20-195, 20-196, 20-196.3, 20-196.4,  
15 20-377, 20-379, 20-380, 20-381, 20-382.2, 20-383, 20-387, 20-389, 20-390, 20-391,  
16 20-392, 20-393, 20-396, 20-397, 58-32-1, 58-78-1, 66-165, 66-168, 104E-8, 105-259,  
17 105-269.3, 105-449.44, 120-12.1, 120-70.94, 122C-408, 122C-409, 122C-411, 122C-414,  
18 126-5, 127A-17.1, 127A-19, 127A-20, 127A-21, 127A-22, 127A-35, 127A-40, 127A-42,  
19 127A-43, 127A-54, 127A-57, 127A-80, 127A-81, 127A-107, 127A-139, 127A-161,  
20 127A-162, 127A-163, 127A-164, 127C-2, 130A-475, 143-166.13, 143-215.52, 143-215.56,  
21 143-215.93A, 143-215.94GG, 143-215.94HH, 143-341, 143-355.1, 143-651, 143-652.1,  
22 143-652.2, 143-654, 143-655, 143-658, 143-661, 143-664, 143-726, ~~143A-79.2, 143A-239,~~  
23 ~~143A-240, 143A-241, 143A-242, 143A-243, 143A-244, 143A-245,~~ 143B-2, 143B-6,  
24 143B-181, 143B-394.15, 143B-417, 143B-426.22, 143B-477, 143B-478, 143B-479,  
25 143B-480, 143B-480.1, 143B-480.2, 143B-480.3, 143B-490, 143B-491, 143B-492,  
26 143B-495, 143B-496, 143B-497, 143B-498, 143B-499, 143B-499.2, 143B-499.4,  
27 143B-499.7, 143B-508, 143B-508.1, Parts 8 and 9 of Article 11 of Chapter 143B of the  
28 General Statutes, 143B-510, 146-30, 147-12, 150B-1, 161-11.4, 166A-5, 166A-6,  
29 166A-6.03, 166A-6.1, 166A-14, 166A-18, 166A-21, 166A-26, 166A-28, 166A-60,  
30 166A-61, and 166A-62. In all other instances in which the term "Crime Control and Public  
31 Safety" appears in the General Statutes, the Revisor of Statutes shall replace that term with  
32 "Public Safety"."

33           **SECTION 40.** Section 25 of S.L. 2011-284 is repealed.

34           **SECTION 41.** The introductory language of Section 12(b) of S.L. 2011-326 reads  
35 as rewritten:

36           **"SECTION 12.(b)** ~~G.S. 7B-1110.1(a)~~G.S. 7B-1101.1(a) reads as rewritten:"

37           **SECTION 42.(a).** The prefatory language of Section 30 of S.L. 2011-391 reads as  
38 rewritten:

39           **"SECTION 30.** Section 13.22(b) of Session Law 2011-145 ~~reads as rewritten:~~is rewritten  
40 to read:"

41           **SECTION 42.(b).** This section is retroactively effective July 1, 2011.

42           **SECTION 43.** The Revisor of Statutes may cause to be printed all explanatory  
43 comments of the drafters of S.L. 2011-339 and S.L. 2011-344 as the Revisor deems  
44 appropriate.

45           **SECTION 44.** The Revisor of Statutes may cause to be printed all explanatory  
46 comments of the drafters of S.L. 2011-341 as the Revisor deems appropriate.

47

48

49



**PART II. OTHER AMENDMENTS.****A. TECHNICAL CHANGES.**

**SECTION 45.(a).** G.S. 15A-1331A is recodified as G.S. 15A-1331.1.

**SECTION 45.(b).** G.S. 20-15.1 reads as rewritten:

**"§ 20-15.1. Revocations when licensing privileges forfeited.**

The Division shall revoke the license of a person whose licensing privileges have been forfeited under ~~G.S. 15A-1331A~~, G.S. 15A-1331.1, 50-13.12, and 110-142.2. If a revocation period set by this Chapter is longer than the revocation period resulting from the forfeiture of licensing privileges, the revocation period in this Chapter applies."

**SECTION 45.(c).** G.S. 20-179.3(b)(2) reads as rewritten:

"(b) Eligibility. –

....

(2) Any person whose licensing privileges are forfeited pursuant to ~~G.S. 15A-1331A~~ G.S. 15A-1331.1 is eligible for a limited driving privilege if the court finds that at the time of the forfeiture, the person held either a valid drivers license or a drivers license that had been expired for less than one year and

a. The person is supporting existing dependents or must have a drivers license to be gainfully employed; or

b. The person has an existing dependent who requires serious medical treatment and the defendant is the only person able to provide transportation to the dependent to the health care facility where the dependent can receive the needed medical treatment.

The limited driving privilege granted under this subdivision must restrict the person to essential driving related to the purposes listed above, and any driving that is not related to those purposes is unlawful even though done at times and upon routes that may be authorized by the privilege."

**SECTION 45.(d).** G.S. 113-277(a4) reads as rewritten:

"(a4) The Wildlife Resources Commission shall order the surrender of any license or permit issued under this Article to a person whose licensing privileges have been forfeited under ~~G.S. 15A-1331A~~ G.S. 15A-1331.1 for the period specified by the court."

**SECTION 45.(e).** If Senate Bill 707, 2011 Regular Session, becomes law, G.S. 15A-1331B, as enacted by that act, is recodified as G.S. 15A-1331.2.

**SECTION 45.5.** G.S. 18B-1305(a1), as enacted by S.L. 2012-4, s.1, reads as rewritten:

"(a1) Termination by a Small Brewery. – A brewery's authorization to distribute its own malt beverage products pursuant to ~~G.S. 18B-1104(7)~~ G.S. 18B-1104(8) shall revert back to the brewery, in the absence of good cause, following the fifth business day after confirmed receipt of written notice of such reversion by the brewery to the wholesaler. The brewery shall pay the wholesaler fair market value for the distribution rights for the affected brand. For purposes of this subsection, "fair market value" means the highest dollar amount at which a seller would be willing to sell and a buyer willing to buy at the time the self-distribution rights revert back to the brewery, after each party has been provided all information relevant to the transaction."

**SECTION 45.7.** G.S. 20-79.4(b)(170) reads as rewritten:

"(170) Purple Heart Recipient. – Issuable to a recipient of the Purple Heart award.

The plate shall bear the phrase "Purple Heart Veteran, Combat ~~Wounded~~" ~~and the letters "PH".~~ Wounded. A person may obtain from the Division a special registration plate under this subdivision for the registered owner of a motor vehicle or a motorcycle. A motorcycle plate issued under this

1 subdivision shall bear a depiction of the Purple Heart Medal and the phrase  
2 "Purple Heart Veteran, Combat Wounded.""

3 **SECTION 46.(a).** G.S. 66-421(a) reads as rewritten:

4 "(a) Issuance of Permits. – The sheriff of each county shall issue a nonferrous metals  
5 purchase permit to an applicant if the applicant (i) has a fixed site in the sheriff's county; (ii)  
6 declares on a form provided by the sheriff that the applicant is informed of and will comply  
7 with the provisions of this Part; (iii) does not have a permit that has been revoked pursuant to  
8 ~~G.S. 66-324(b)~~ G.S. 66-424(b) at the time of the application; and (iv) has not been convicted of  
9 more than three violations of this Part. A permit shall be valid for 12 months and shall be valid  
10 only for fixed sites in the county of issuance. A permit shall be obtained for each fixed site at  
11 which nonferrous metals are purchased."

12 **SECTION 46.(b).** This section is effective October 1, 2012.

13 **SECTION 47.(a).** If House Bill 614, 2011 Regular Session, becomes law,  
14 G.S. 90-21.102, as enacted by that act, reads as rewritten:

15 **"§ 90-21.102. Definitions.**

16 The following definitions apply in this Article:

17 ....

18 (3) Health care provider. – Any person who:

19 ...

20 m. Is licensed to practice as a physician, physician assistant, dentist,  
21 pharmacist, optometrist, registered nurse, licensed practical nurse,  
22 dental hygienist, or optician under provisions of law of another state  
23 of the United States comparable to the provisions referenced in  
24 sub-subdivisions a. through ~~a.1.~~ of this subdivision.

25 ...

26 ...

27 (5) Voluntary provision of health care services. – The provision of health care  
28 services by a health care provider in association with a sponsoring  
29 organization in which both of the following circumstances exist:

30 a. The health care services are provided without charge to the recipient  
31 of the services or to a third party on behalf of the recipient.

32 b. The health care provider receives no compensation or other  
33 consideration in exchange for the health care services provided.

34 For the purposes of this Article, the provision of health care services in  
35 ~~non-profit-nonprofit~~ community health centers, local health department  
36 facilities, free clinic facilities, or at a ~~providers-provider's~~ place of  
37 employment when the patient is referred by a ~~non-profit-nonprofit~~  
38 community health referral service shall not be considered the voluntary  
39 provision of health care.

40 ...."

41 **SECTION 47(b).** If House Bill 614, 2011 Regular Session, becomes law,  
42 G.S. 90-21.104(d)(1), as enacted by that act, reads as rewritten:

43 "(d) Each registered sponsoring organization has the duty and responsibility to do all of  
44 the following:

45 (1) Except as provided in this subdivision, by no later than 14 days before a  
46 sponsoring organization initiates voluntary health care services in this State,  
47 the sponsoring organization shall submit to the Department a list containing  
48 the following information regarding each health care provider who is to  
49 provide voluntary health care services on behalf of the sponsoring  
50 organization during any part of the time period in which the sponsoring

1 organization is authorized to provide voluntary health care services in the  
2 State:

- 3 a. Name.  
4 b. Date of birth.  
5 c. State of licensure.  
6 d. License number.  
7 e. Area of practice.  
8 f. Practice address.

9 By no later than 3 days prior to voluntary health care services being rendered, a sponsoring  
10 organization may amend the list to add health care providers defined in G.S. 90-21.102(3)a.  
11 through ~~G.S. 90-21.102(3)m~~. G.S. 90-21.102(3)l."

12 **SECTION 47.(c).** This section is effective January 1, 2013.

13 **SECTION 48.** G.S. 115C-107.7(a1) reads as rewritten:

14 "(a1) Any corporal punishment administered on students with disabilities shall be  
15 consistent with the requirements of ~~G.S. 115C-391(a)(5)~~. G.S. 115C-390.4."

16 **SECTION 49.** G.S. 115C-309(a) reads as rewritten:

17 "(a) Student Teacher and Student Teaching Defined. – A "student teacher" is any  
18 student enrolled in an institution of higher education approved by the State Board of Education  
19 for the preparation of teachers who is jointly assigned by that institution and a local board of  
20 education to student teach under the direction and supervision of a regularly employed certified  
21 teacher.

22 "Student teaching" may include those duties granted to a teacher by G.S. 115C-307  
23 ~~and 115C-390~~ and any other part of the school program for which either the supervising teacher  
24 or the principal is responsible."

25 **SECTION 50.** If Senate Bill 77, 2011 Regular Session, becomes law, the title of  
26 the act reads as rewritten:

27 "AN ACT PROVIDING THAT AFTER DECEMBER 31, 2012, LANDLORDS SHALL,  
28 WHEN INSTALLING A NEW SMOKE ALARM OR REPLACING AN EXISTING SMOKE  
29 ALARM, INSTALL A TAMPER RESISTANT, TEN YEAR LITHIUM BATTERY SMOKE  
30 ALARM EXCEPT IN CERTAIN CASES, ~~AND PROVIDING THAT LANDLORDS MAY~~  
31 ~~DEDUCT FROM THE TENANT SECURITY DEPOSIT DAMAGE TO A SMOKE ALARM~~  
32 ~~OR CARBON MONOXIDE ALARM, AS RECOMMENDED BY THE NORTH CAROLINA~~  
33 ~~CHILD FATALITY TASK FORCE.~~"

34 **SECTION 51.** If Senate Bill 229, 2011 Regular Session, is enacted, then Part  
35 XXIV of that act reads as rewritten:

36 **"PART XXIV. USE OF TVA SETTLEMENT FUNDS**

37 **SECTION 30.** Funds received by the State pursuant to the provisions of the  
38 Consent Decree entered into by the State in *State of Alabama et al. v. Tennessee Valley*  
39 *Authority*, Civil Action 3:11-cv-00170 in the United States District Court for the Eastern  
40 District of Tennessee shall be used exclusively to award grants for "Environmental Mitigation  
41 Projects" of the types specified in paragraph 128 of the Consent Decree in the following  
42 counties: Avery, Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson,  
43 Macon, Madison, McDowell, Mitchell, Swain, Transylvania, Watauga, Yancey."

44 **SECTION 52.** If Senate Bill 724, 2011 Regular Session, becomes law, the lead-in  
45 language for Section 5 of that act is rewritten to read:

46 "SECTION 5. Section 5 of S.L. 2008-90, as amended by Section 1 of S.L. 2010-36, reads  
47 as rewritten:"

48 **SECTION 53.** Sections 49 and 50 of S.L. 2012-56 are repealed.

49 **SECTION 54.** Section 2.2 of S.L. 2012-18 reads as rewritten:

50 "SECTION 2.2. ~~G.S. 161-10(8a)~~ G.S. 161-10(a)(8a) is repealed."

51 **SECTION 55.** G.S. 115C-47(60)a. reads as rewritten:

1 **"§ 115C-47. Powers and duties generally.**

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

4 ....  
5 (60) To Ensure That the Unique Needs of Students With Immediate Family  
6 Members in the Military Are Met. – Local boards of education shall collect  
7 and annually report to the State Board of Education the following  
8 information for each school in the local school administrative unit:

9 a. The number of students who have an immediate family member who  
10 has served in the reserve or active components of the Armed Forces  
11 of the United States since ~~September 1, 2011~~ September 11, 2001."

12 **SECTION 56.** If House Bill 237, 2011 Regular Session, becomes law, Section 8(f)  
13 of that act reads as rewritten:

14 **"SECTION 8.(f) Reports to Committee.** – Whenever a State agency is required by  
15 law to report to the General Assembly or to any of its permanent, study, or oversight  
16 committees or subcommittees on matters affecting the ~~workforce development workers'~~  
17 compensation system, the Department shall transmit a copy of the report to the cochairs of the  
18 Committee."  
19

20 **B. CLARIFYING/CONFORMING CHANGES**

21  
22 **SECTION 57.** G.S. 20-79.4(b)(11) reads as rewritten:

23 "(11) American Red Cross. – Issuable to the registered owner of a motor vehicle in  
24 accordance with G.S. 20-81.12. The plate shall bear the ~~phrase "American~~  
25 ~~Red Cross Saving Lives" and a red cross~~ phrases "Proud Supporter,"  
26 "American Red Cross," and the official American Red Cross logo."

27 **SECTION 58.** If House Bill 1075, 2011 Regular Session, becomes law,  
28 G.S. 35A-1213(f), as enacted by Section 12(c) of that act, reads as rewritten:

29 "(f) An individual who contracts with, or is employed by-by, an entity that contracts  
30 with a local management entity (LME) for the delivery of mental health, developmental  
31 disabilities, and substance abuse services may not serve as a guardian for a ward for whom the  
32 individual or entity is providing such services; these services, unless the individual is a parent of  
33 that ward."

34 **SECTION 59.(a).** G.S. 42-51(a)(3), reads as rewritten:

35 **"§ 42-51. Permitted uses of the deposit.**

36 (a) Security deposits for residential dwelling units shall be permitted only for the  
37 following:

38 ....  
39 (3) Damages as the result of the nonfulfillment of the rental period, except  
40 where the tenant terminated the rental agreement under G.S. 42-45,  
41 G.S. 42-45.1, or because the tenant was forced to leave the property because  
42 of the landlord's violation of Article 2A of Chapter 42 of the General  
43 Statutes or was constructively evicted by the landlord's violation of  
44 G.S. 42-42(a)."

45 **SECTION 59.(b).** G.S. 42-51(a)(2), reads as rewritten:

46 **"§ 42-51. Permitted uses of the deposit.**

47 (a) Security deposits for residential dwelling units shall be permitted only for the  
48 following:

49 ....  
50 (2) Damage to the premises, including damage to or destruction of smoke  
51 detectors alarms or carbon monoxide detectors alarms.

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...."

**SECTION 59.(c).** Subsection (a) of this section is effective October 1, 2012.  
Subsection (b) of this section is effective December 1, 2012.

**SECTION 60.** G.S. 66-58(b) is amended by adding a new subdivision to read:  
**"§ 66-58. Sale of merchandise or services by governmental units.**

(b) The provisions of subsection (a) of this section shall not apply to:

...  
**(9a) The North Carolina Forest Service."**

**SECTION 61.** If Senate Bill 521 becomes law, G.S. 93A-83(c) reads as rewritten:  
"(c) **Required Contents of a Broker Price Opinion or Comparative Market Analysis.** – A broker price opinion or comparative market analysis shall be in writing and conform to the standards provided in this Article that ~~may~~ shall include, but are not limited to, the following:

- (1) A statement of the intended purpose of the broker price opinion or comparative market analysis.
- (2) A brief description of the subject property and property interest to be priced.
- (3) The basis of reasoning used to reach the conclusion of the price, including the applicable market data or capitalization computation.
- (4) Any assumptions or limiting conditions.
- (5) A disclosure of any existing or contemplated interest of the broker issuing the broker price opinion, including the possibility of representing the landlord/tenant or seller/buyer.
- (6) The effective date of the broker price opinion.
- (7) The name and signature of the broker issuing the broker price opinion and broker license number.
- (8) The name of the real estate brokerage firm for which the broker is acting.
- (9) The signature date.
- (10) A disclaimer stating that "This opinion is not an appraisal of the market value of the property, and may not be used in lieu of an appraisal. If an appraisal is desired, the services of a licensed or certified appraiser shall be obtained. This opinion may not be used by any party as the primary basis to determine the value of a parcel of or interest in real property for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit."
- (11) A copy of the assignment request for the broker price opinion or comparative market analysis."

**SECTION 61.5(a).** If House Bill 462, 2011 Regular Session becomes law, G.S. 116B-8, as enacted in Section 3 of the act, reads as rewritten:

**"§ 116B-8. Employment of persons with specialized skills or knowledge.**

The Treasurer may employ the services of such independent consultants, real estate managers and other persons possessing specialized skills or knowledge as the Treasurer deems necessary or appropriate for the administration of this Chapter, including valuation, maintenance, upkeep, management, sale and conveyance of property and determination of sources of unreported abandoned property. The Treasurer may also employ the services of an attorney to perform a title search or to provide an accurate legal description of real property which the Treasurer has reason to believe may have escheated. Persons whose services are employed by the Treasurer pursuant to this section to determine sources and amounts of unreported property are subject to the same policies, including confidentiality and ethics, as employees of the Department of State Treasurer assigned to determine sources and amounts of unreported property. If the Treasurer contracts with any other person to conduct an audit under this Chapter, the audit shall not be performed on a contingent fee basis or any other similar

1 method that may impair an auditor's independence or the perception of the auditor's  
2 independence by the public. Notwithstanding the preceding sentence, the Treasurer may  
3 contract with any other person on a contingent fee basis to conduct audits of life insurance  
4 companies where the audit is being conducted for the purpose of identifying unclaimed death  
5 benefits or to conduct audits of holders of unredeemed bond funds. Compensation of persons  
6 whose services may be employed pursuant to this section on a contingent fee basis shall be  
7 limited to twelve percent (12%) of the final assessment."

8 **SECTION 61.5(b).** If House Bill 462, 2011 Regular Session becomes law, Section 6 of  
9 the act reads as rewritten:

10 "SECTION 6. This act becomes effective ~~July-October~~ 1, 2012, and applies to  
11 audits, determinations of liability, and assessments contracted for on or after that date. Units of  
12 local government and the Treasurer shall not renew contingency fee based contracts for these  
13 services after ~~July-October~~ 1, 2012. Beginning October 1, 2012, the Treasurer, an assessor, a  
14 city or a county shall not assign further audits on a contingency fee basis to an auditing firm  
15 under a contract that meets all the following conditions: (i) the contract would have been  
16 prohibited under this act had the contract been entered into before October 1, 2012, and (ii) the  
17 contract allows the assignment of audits on a discretionary basis by the Treasurer, an assessor,  
18 a city or a county. "

19 **SECTION 62.** If House Bill 438 becomes law, G.S. 130A-1.1(b) reads as  
20 rewritten:

21 "(b) A local health department shall ensure that the following 10 essential public health  
22 services are available and accessible to the population in each county served by the local health  
23 department:

- 24 (1) Monitoring health status to identify community health problems.
- 25 (2) Diagnosing and investigating health hazards in the community.
- 26 (3) Informing, educating, and empowering people about health issues.
- 27 (4) Mobilizing community partnerships to identify and solve health problems.
- 28 (5) Developing policies and plans that support individual and community health  
29 efforts.
- 30 (6) Enforcing laws and regulations that protect health and ensure safety.
- 31 (7) Linking people to needed personal health care services and assuring the  
32 provision of health care when otherwise unavailable.
- 33 (8) ~~Assuring~~ Ensuring a competent public health workforce and personal health  
34 care workforce.
- 35 (9) Evaluating effectiveness, accessibility, and quality of personal and  
36 population-based health services.
- 37 (10) Conducting research."

38 **SECTION 62.5.** If House Bill 391, 2011 Regular Session, becomes law,  
39 G.S. 153A-316.1(a), as enacted by that act, reads as rewritten:

40 "**§ 153A-316.1. Urban research service district (URSD).**

41 (a) Standards. – The board of commissioners of a county may establish one or more  
42 urban research service districts ("URSD" as used in this Part) that meets the following  
43 standards:

- 44 (1) The URSD is wholly within a county research and production service district  
45 located partly within that county.
- 46 (2) The URSD is located wholly within that county.
- 47 (3) The URSD is not contained within another URSD.
- 48 (4) A petition requesting creation of the URSD signed by at least fifty percent  
49 (50%) of the owners of real property in the URSD who own at least fifty  
50 (50%) of total area of the real property in the URSD has been presented to  
51 the board of commissioners."

52 **SECTION 63.** Section 5 of S.L. 2011-236 reads as rewritten:

1 "SECTION 5. This act becomes effective October 1, 2011, and applies to  
 2 agreements executed on or after that date. Agreements executed prior to October 1, 2011,  
 3 remain subject to the laws in effect at the time the parties executed the ~~agreement~~  
 4 differences in wording between procedures authorized to establish agreements under the laws  
 5 repealed by this act and under the superseding laws enacted by this act clarify the permitted  
 6 procedures under the repealed laws."

7  
 8 **C. SUBSTANTIVE CHANGES**  
 9

10 **SECTION 64.** G.S. 18C-151(c) reads as rewritten:

11 "(c) Before a contract is awarded, the Director shall conduct a thorough background  
 12 investigation of all of the following:

- 13 (1) The potential contractor to whom the contract is to be awarded.  
 14 (2) Any parent or subsidiary corporation of the potential contractor to whom the  
 15 contract is to be awarded.  
 16 (3) All shareholders with a five percent (5%) or more interest in the potential  
 17 contractor or parent or subsidiary corporation of the potential contractor to  
 18 whom the contract is to be awarded. For purposes of this subdivision,  
 19 "shareholders" means any natural person or those individuals with  
 20 capabilities to make operating decisions for the potential contractor or parent  
 21 or subsidiary corporation of the potential contractor to whom the contract is  
 22 to be awarded.  
 23 (4) All officers and directors of the potential contractor or parent or subsidiary  
 24 corporation of the potential contractor to whom the contract is to be  
 25 awarded."

26 **SECTION 65.** Part 9 of Article 1 of Chapter 10B of the General Statutes is  
 27 amended by adding a new section to read:

28 **"§ 10B-72. Certain notarial acts validated when recommissioned notary failed to again**  
 29 **take oath.**

30 Any acknowledgment taken and any instrument notarized by a person who after  
 31 recommissioning failed to again take the oath as a notary public is hereby validated. The  
 32 acknowledgment and instrument shall have the same legal effect as if the person qualified as a  
 33 notary public at the time the person performed the act. This section shall apply to notarial acts  
 34 performed on or after August 28, 2010, and before January 12, 2012."

35 **SECTION 66.** G.S. 93D-5(c) reads as rewritten:

36 "(c) No license shall be issued to any person until the person has served as an apprentice  
 37 as set forth in G.S. 93D-9 for a period of at least one year; provided, that the one-year  
 38 apprenticeship requirement shall ~~not be waived for persons for:~~

- 39 (1) Persons qualified under G.S. 93D-6; persons ~~G.S. 93D-6.~~  
 40 (2) Persons holding a permanent license as an audiologist under Article 22 of  
 41 Chapter 90 of the General Statutes ~~Statutes.~~  
 42 (3) Persons holding a temporary license as an audiologist under Article 22 of  
 43 Chapter 90 of the General Statutes who have undergone 250 hours of  
 44 supervised activity fitting or selling hearing aids under the direct supervision  
 45 of a Registered Sponsor.  
 46 (4) Persons continuously licensed to fit or sell hearing aids in another state or  
 47 jurisdiction for the preceding three years; and persons ~~years.~~  
 48 (5) Persons who have worked full-time for one year in the office of and under  
 49 the direct supervision of an otolaryngologist fitting or selling hearing aids."

50 **SECTION 67.** G.S. 146-30(c) reads as rewritten:

1       "(c) The amount or rate of such service charge shall be fixed by rules and regulations  
2 adopted by the Governor and approved by the Council of State, but as to any particular sale,  
3 lease, rental, or other disposition, it shall not exceed ten percent (10%) of the gross amount  
4 received from such sale, lease, rental, or other disposition. Notwithstanding any other provision  
5 of this Subchapter, the net proceeds derived from the sale of land or products of land owned by  
6 or under the supervision and control of the Wildlife Resources Commission, or acquired or  
7 purchased with funds of that Commission, shall be paid into the Wildlife Resources Fund.  
8 Provided, however, the net proceeds derived from the sale of land or timber from land owned  
9 by or under the supervision and control of the Department of Agriculture and Consumer  
10 Services shall be deposited with the State Treasurer in a capital improvement account to the  
11 credit of the Department of Agriculture and Consumer Services, to be used for such specific  
12 capital improvement projects or other purposes as are provided by transfer of funds from those  
13 accounts in the Capital Improvement Appropriations Act. Provided further, the net proceeds  
14 derived from the sale of park land owned by or under the supervision and control of the  
15 Department of Environment and Natural Resources shall be deposited with the State Treasurer  
16 in a capital improvement account to the credit of the Department of Administration to be used  
17 for the purpose of park land acquisition as provided by transfer of funds from those accounts in  
18 the Capital Improvement Appropriations Act. In the Capital Improvement Appropriations Act,  
19 line items for purchase of park and agricultural lands will be established for use by the  
20 Departments of Administration and Agriculture. The use of such funds for any specific capital  
21 improvement project or land acquisition is subject to approval by the Director of the Budget.  
22 No other use may be made of funds in these line items without approval by the General  
23 Assembly except for incidental expenses related to the project or land acquisition. Additionally  
24 with the approval of the Director of the Budget, either Department may request funds from the  
25 Contingency and Emergency Fund when the necessity of prompt purchase of available land can  
26 be demonstrated and funds in the capital improvement accounts are insufficient. Provided  
27 further, the net proceeds derived from the sale of any portion of the land owned by the State in  
28 or around the Butner Reservation on or after July 1, 1980, shall be deposited with the State  
29 Treasurer in a capital improvement account to the credit of the Department of Health and  
30 Human Services to make capital improvements on or to property owned by the State in the  
31 Butner Reservation subject to approval by the Office of State Budget and Management, and  
32 may be used to build industrial access roads to industries located or to be located on the Butner  
33 Reservation, to construct new city streets in the Butner Reservation, extend water and sewer  
34 service on the Butner Reservation, repair storm drains on the Butner Reservation, and for other  
35 capital uses on the Reservation as determined by the Secretary. Provided further,  
36 notwithstanding any other provision of this Subchapter, the proceeds derived from the lease  
37 dispositions of land or facilities owned or under the supervision and control of East Carolina  
38 University's Division of Health Sciences for the delivery of health care services shall be  
39 deposited in clinical accounts at East Carolina University to be used to improve access to  
40 patient care."

41       **SECTION 68.(a).** G.S. 143-553(a) reads as rewritten:

42       "(a) All persons employed by an employing entity as defined by this Part who owe  
43 money to the State and whose salaries are paid in whole or in part by State funds must make  
44 full restitution of the amount owed as a condition of continuing employment; provided,  
45 however, that no employing entity shall terminate for failure to make full restitution the  
46 employment of such an employee who owes money to the University of North Carolina Health  
47 Care System or to East Carolina University's Division of Health Sciences for health care  
48 services."

49       **SECTION 68.(b).** G.S. 147-86.11(e) reads as rewritten:

50       "(e) Elements of Plan. – For moneys received or to be received, the statewide cash  
51 management plan shall provide at a minimum that:



- 1 (1) Except as otherwise provided by law, moneys received by employees of
- 2 State agencies in the normal course of their employment shall be deposited
- 3 as follows:
- 4 a. Moneys received in trust for specific beneficiaries for which the
- 5 employee-custodian has a duty to invest shall be deposited with the
- 6 State Treasurer under the provisions of G.S. 147-69.3.
- 7 b. All other moneys received shall be deposited with the State Treasurer
- 8 pursuant to G.S. 147-77 and G.S. 147-69.1.
- 9 (2) Moneys received shall be deposited daily in the form and amounts received,
- 10 except as otherwise provided by statute.
- 11 (3) Moneys due to a State agency by another governmental agency or by private
- 12 persons shall be promptly billed, collected and deposited.
- 13 (4) Unpaid billings due to a State agency other than amounts owed by patients
- 14 to the University of North Carolina Health Care System or East Carolina
- 15 University's Division of Health Sciences shall be turned over to the Attorney
- 16 General for collection no more than 90 days after the due date of the billing,
- 17 except that a State agency need not turn over to the Attorney General unpaid
- 18 billings of less than five hundred dollars (\$500.00), or (for institutions where
- 19 applicable) amounts owed by all patients which are less than the federally
- 20 established deductible applicable to Part A of the Medicare program, and
- 21 instead may handle these unpaid bills pursuant to agency debt collection
- 22 procedures.
- 23 (4a) The University of North Carolina Health Care System and East Carolina
- 24 University's Division of Health Sciences may turn over to the Attorney
- 25 General for collection accounts owed by patients.
- 26 (5) Moneys received in the form of warrants drawn on the State Treasurer shall
- 27 be deposited by the State agency directly with the State Treasurer and not
- 28 through the banking system, unless otherwise approved by the State
- 29 Treasurer.
- 30 (6) State agencies shall accept payment by electronic payment in accordance
- 31 with G.S. 147-86.22 to the maximum extent possible consistent with sound
- 32 business practices."

33 **SECTION 68.(c).** G.S. 147-86.23 reads as rewritten:

34 **"§ 147-86.23. Interest and penalties.**

35 A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a

36 past-due account receivable from the date the account receivable was due until it is paid. A

37 State agency shall add to a past-due account receivable a late payment penalty of no more than

38 ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty

39 for good cause shown. If another statute requires the payment of interest or a penalty on a

40 past-due account receivable, this section does not apply to that past-due account receivable.

41 This section does not apply to money owed to the University of North Carolina Health Care

42 System or to East Carolina University's Division of Health Sciences for health care services."

43 **SECTION 69.** Section 9(a) of Part IV of Chapter 908 of the 1983 Session Laws, as

44 amended by Chapters 821 and 922 of the 1989 Session Laws, Section 2 of S.L. 2001-402, and

45 Section 1 of S.L. 2011-160, reads as rewritten:

46 "Sec. 9. (a) Distribution and Use of Proceeds. – The local administrative authority, acting

47 on its own behalf or as agent for each taxing entity, shall distribute the proceeds of the taxes

48 levied in this Part as provided in this subsection. The distribution shall be made by the 20th day

49 of each month following the month in which the tax is collected.

- 50 ...
- 51 (4) Distribution to Charlotte for Convention and Visitor Promotion and Other
- 52 Tourism-Related Purposes. –
- 53 ...

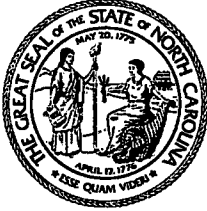
- 54 d. The Towns of Cornelius, Davidson, and Huntersville shall distribute
- 55 on a quarterly basis to the Lake Norman Convention and Visitors
- 56 Bureau from the portion of prepared food and beverage taxes
- 57 received from the City of Charlotte for the purpose of

- 1 tourism-marketing promotions an amount not less than the sum of the
- 2 following:
- 3 1. Twenty-eight percent (28%) of the portion of occupancy tax
- 4 net proceeds received from the local administrative authority.
- 5 2. Twenty-five percent (25%) of the portion of prepared food
- 6 and beverage taxes received from the City of Charlotte."

7 **SECTION 70.** If House Bill 950, 2012 Regular Session of the General Assembly,  
8 becomes law, then Section 10.9F(c)(2) reads as rewritten:

9 "(2) The recipient (i) resides ~~either~~ in a private living arrangement, a residential  
10 facility licensed by the State of North Carolina as an adult care home, or a  
11 combination home as defined in ~~G.S. 131E-101(1a)~~-G.S. 131E-101(1a), or  
12 (ii) resides in a group home licensed under Chapter 122C of the General  
13 Statutes and as of December 31, 2012, was eligible to receive personal care  
14 services under the Medicaid State Plan while residing in the group home."

15 **SECTION 71.** Except where otherwise provided, this act is effective when it  
16 becomes law.



# SENATE BILL 847: GSC Technical Corrections/Other Changes

2011-2012 General Assembly

**Committee:** Senate Judiciary I  
**Introduced by:** Sen. Hartsell  
**Analysis of:** First Edition

**Date:** June 27, 2012  
**Prepared by:** Barbara Riley  
Committee Counsel

## BILL ANALYSIS:

Sections 1-44, pp. 1-25, are technical changes recommended by the General Statutes Commission.

### Sections 45-56, pp. 25-28, make technical changes as follows:

**Section 45(a)** recodifies G.S. 15A-1331A as G.S. 15A-1331.1

**Section 45 (b), (c) and (d)** correct citations in the statutes to reflect the recodification.

**Section 45(e)** recodifies G.S. 15A-1331B as G.S. 15A-1331.2 if Senate Bill 707 becomes law.

**Section 45.5** amends G.S. 18B-1305(a1) to correct an error in the cross-reference to G.S. 18B-1104(8).

**Section 45.7** amends G.S. 20-79.4(170) to remove the requirement that special plates issued to a recipient of the Purple Heart must bear the letters "PH."

**Section 46** corrects a statutory reference in S.L. 2012-46. This section is effective October 1, 2012

**Section 47** corrects statutory references and grammatical errors in House Bill 614, if it becomes law. This section is effective January 1, 2013.

**Section 48** corrects a statutory reference in G.S. 115C-107.7.

**Section 49** deletes an incorrect statutory reference from G.S. 115C-309(a).

**Section 50** fixes the long title of Senate Bill 77 by removing non-relevant language, if the bill becomes law.

**Section 51** adds Swain County to the list of counties that can be awarded grants for "Environmental Mitigation Projects" under the Consent Decree entered into by the State.

**Section 52** corrects the Session Law citation in Section 5 of Senate Bill 724, if the bill becomes law.

**Section 53** repeals two obsolete sections of the statutes.

**Section 54** corrects a Session Law citation.

**Section 55** changes an incorrectly typed date, 2011, to 2001.

**Section 56** corrects the term "workforce development system" to "workers' compensation system," if HB 237 becomes law.

### Sections 57-63, pp. 28-31, make clarifying and conforming changes as follows:

**Section 57** corrects the phrase on a special license plate from "American Red Cross Saving Lives" to "Proud Supporter" and "American Red Cross."

**Section 58** clarifies that individuals contracting with an entity for the delivery of mental health, developmental disabilities, and substance abuse services may not serve as guardians for the service recipients unless they are the parents of the recipient.

# Senate Bill 847

Page 2

**Section 59 (a), (b) and (c)** correct a statutory citation and changes "smoke detectors to smoke alarms" for consistency. Subsection (a) is effective October 1, 2012 and subsection (b) is effective December 1, 2012.

**Section 60** adds The North Carolina Forest Service to the Umstead Act. This conforms to the Type I transfer of the entity made last year.

**Section 61** changes "may" to "shall" regarding proposed standards which must be included in a broker price opinion or comparative market analysis.

**Section 61.5 (a) and (b)** amends G.S. 116B-8 to limit the compensation paid to any persons permitted to be employed by the Treasurer on a contingent fee basis to 12% of the final assessment. In addition, the effective date of the act is moved from July 1, 2012 to October 1, 2012. The changes also conform the prohibition on renewing contingency fee contracts to actual practice.

**Section 62** corrects a grammatical error.

**Section 62.5** clarifies a provision in House Bill 391 which would authorize additional permitted uses in county research and production districts including mixed-use development that combines residential, retail, and business use (USRD). This section clarifies that each USRD must be completely contained within a county research and production service district.

**Section 63** clarifies that changes to "payable on death accounts" legislation did not alter the process for creating the accounts.

## **Sections 64-70, pp. 31-34, make substantive changes as follows:**

**Section 64** amends the Lottery Commission statutes to limit the scope of the definition of "shareholders" who are to be investigated before contracts can be awarded. Shareholders are any natural persons or individuals with capabilities to make operating decisions for potential contractors.

**Section 65** cures notarial acts performed on or after August 28, 2010, and before January 12, 2012, by a person who failed to take the oath of office again after recommissioning as required by G.S. 10B-9.

**Section 66** corrects drafting errors in G.S. 93D-5(c) as amended by S.L. 2011-311 (S670), which incorrectly stated that the one-year apprenticeship requirement "shall not be waived" rather than "shall be waived," and incorrectly set out the specific circumstances under which the applicant would be eligible for a waiver of the apprenticeship requirement.

**Section 67** allows ECU to retain rental receipts from healthcare service providers co-located on the campus facilities.

**Section 68** creates exceptions to the accounts receivable process for East Carolina University's Division of Health Sciences (ECU DHS) similar to those of the University of North Carolina Health Care System.

**Section 69** clarifies distribution of occupancy and food and beverage taxes proceeds on a quarterly basis to the Lake Norman Convention and Visitors' Bureau.

**Section 70** allows residents of a group home licensed under Chapter 122C and who meet current criteria to be eligible for personal care services under the State's Medicaid Plan.

**EFFECTIVE DATE:** Except as otherwise provided, this act is effective when it becomes law.

S847-SMRF-156(e1) v15



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 847\*

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

S847-AST-90 [v.1]

Page 1 of 3

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

Date \_\_\_\_\_, 2012

Senator Rabon

1 moves to amend the bill on page 34, lines 14-15 by inserting the following between those lines:

2  
3 "SECTION 70.5.(a) If House Bill 950, 2011 Regular Session, becomes law,  
4 G.S. 136-202(e) as amended by that act reads as rewritten:

5 "(e) A Metropolitan Planning Organization shall be treated as a board for purposes of  
6 Chapter 138A of the General Statutes. Additionally, all individuals serving on a metropolitan  
7 planning organization with voting authority shall do all of the following:

8 (1) Comply with G.S. 14-234, G.S. 14-234.1, and G.S. 133-32.

9 (2) Have an affirmative duty to promptly disclose in writing to the metropolitan  
10 planning organization any conflict of interest or potential conflict of interest  
11 under Chapter 138A of the General Statutes or any other provision of law.  
12 All written disclosures shall be a public record under Chapter 132 of the  
13 General Statutes, and attached to the minutes of the meeting in which any  
14 discussion or vote was taken by the metropolitan planning organization  
15 related to that disclosure.

16 (3) File the disclosures required by G.S. 143B-350 of Board of Transportation  
17 members as a supplemental filing with the State Ethics Commission.

18 SECTION 70.5.(b) If House Bill 950, 2011 Regular Session, becomes law,  
19 G.S. 136-202 is amended by adding a new subsection to read:

20 (f) For purposes of Chapter 138A of the General Statutes, no individual serving on a  
21 metropolitan planning organization in an elected capacity or due to employment with a State  
22 agency or a political subdivision shall be removed due to G.S. 138A-39. "

23 SECTION 70.5.(c) If House Bill 950, 2011 Regular Session, becomes law,  
24 G.S. 136-211(e) as amended by that act reads as rewritten:

25 "(e) Ethics Requirements. – A Rural Transportation Planning Organization shall be  
26 treated as a board for purposes of Chapter 138A of the General Statutes. Additionally, all  
27 individuals serving on a rural transportation planning organization board with voting authority  
28 shall do all of the following:

29 (1) Comply with G.S. 14-234, G.S. 14-234.1, and G.S. 133-32.

30 (2) Have an affirmative duty to promptly disclose in writing to the rural  
31 transportation planning organization any conflict of interest or potential  
32 conflict of interest under Chapter 138A of the General Statutes or any other



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1                   provision of law. All written disclosures shall be a public record under  
2                   Chapter 132 of the General Statutes, and attached to the minutes of the  
3                   meeting in which any discussion or vote was taken by the rural  
4                   transportation planning organization related to that disclosure.

5           (3)   File the disclosures required by G.S. 143B-350 of Board of Transportation  
6                   members as a supplemental filing with the State Ethics Commission.

7           **SECTION 70.5.(d)** If House Bill 950, 2011 Regular Session becomes law,  
8 G.S. 136-211 is amended by adding a new subsection to read:

9           (f)   For purposes of Chapter 138A of the General Statutes, no individual serving on a  
10           rural transportation planning organization in an elected capacity or due to employment with a  
11           State agency or a political subdivision shall be removed due to G.S. 138A-39."

12           **SECTION 70.5.(e)** If House Bill 950, 2011 Regular Session becomes law,  
13 G.S. 143B-350 is amended by adding a new subsection to read:

14           "(j1) Additional Disclosure of Real Property Ownership. – Any person serving on the  
15           Board of Transportation shall disclose at the time of appointment of the person is officially  
16           made public a list of all real estate owned wholly or in part by the person's immediate family or  
17           a business with which the person is associated within the jurisdiction of the board on which the  
18           person is serving. The term "immediate family", as used in this subsection, means a person's  
19           children, parents, brothers, and sisters. The term "business with which associated" shall have  
20           the same meaning as in G.S. 138A-3(3) and shall include any business owned in whole or part  
21           by any business with which associated. Disclosure forms shall be filed with the State Ethics  
22           Commission as a supplemental filing to the Statement of Economic Interest filed under Article  
23           3 of Chapter 138A of the General Statutes. Disclosure forms shall not be a public record under  
24           the provisions of Chapter 132 of the General Statutes until such time as the appointment of the  
25           person filing the statement is officially made public."

26           **SECTION 70.5.(f)** If House Bill 950, 2011 Regular Session becomes law, Article  
27 4 of Chapter 138A of the General Statutes is amended by adding a new section to read:

28           "**§ 138A-38.5. Transportation project conflicts.**

29           (a)   Any covered person serving on the Board of Transportation, a metropolitan  
30           planning organization or a rural transportation planning organization shall not knowingly use  
31           the covered person's position on that board to impact in any way any parcel of real estate  
32           disclosed by the covered person in the statement of economic interest filed under Article 3 of  
33           this Chapter or in the supplemental filings under G.S. 143B-350.

34           (b)   If any covered person serving on the Board of Transportation, a metropolitan  
35           planning organization or a rural transportation planning organization has a conflict under  
36           subsection (a) of this section, it shall be promptly disclosed in writing to the board.

37           (c)   G.S. 138A-38 shall not apply to this section.

38           (d)   If, due to this section, the board records in its minutes that it cannot obtain a quorum  
39           in order to take action because the covered person is disqualified from acting under this section,  
40           the covered person may be counted for purposes of obtaining a quorum, but shall otherwise  
41           abstain from taking any further action.

42           (e)   The permanent designee of any covered person unable to act under this section may  
43           act.

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1       (f) A violation of subsection (a) of this section shall be a Class 1 misdemeanor. Any  
2 complaint involving an alleged violation of this section shall be immediately referred to the  
3 applicable district attorney and the Commission shall stay its investigation under G.S. 138A-12  
4 pending final resolution of the criminal investigation.

5       **SECTION 70.5.(g)** If House Bill 950, 2011 Regular Session becomes law,  
6 G.S. 143-350(f) is amended by adding a new subdivision to read:

7       "(14) Within 30 days after acceptance of appointment by a person appointed to a  
8 metropolitan planning organization or rural transportation planning  
9 organization, the Board shall file written notice of the appointment with the  
10 Governor, the Secretary of State, the Legislative Library, the State Library,  
11 the State Ethics Commission, and the State Controller. For the purposes of  
12 this section, a copy of the letter from the appointing authority shall be  
13 sufficient to be filed if the copy contains the information required in  
14 G.S. 143-47.7(b).

15       **SECTION 70.5.(h)** This act becomes effective January 1, 2013. Members of  
16 Metropolitan Planning Organizations and Rural Transportation Planning Organizations shall  
17 file an initial Statement of Economic Interest with the State Ethics Commission no later than  
18 April 15, 2013. All information provided in the Statement of Economic Interest shall be  
9 current as of December 31, 2012. Initial Statements of Economic Interest shall be filed  
0 electronically."

SIGNED



Amendment Sponsor

SIGNED \_\_\_\_\_

Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_

FAILED \_\_\_\_\_

TABLED \_\_\_\_\_



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

Date \_\_\_\_\_, 2012

Senator Hartsell

- 1 moves to amend the bill on page 30, line 31 by rewriting the line to read:
- 2        "(7) Linking people to needed personal health care services and ~~assuring~~ ensuring
- 3        the".
- 4
- 5

SIGNED   
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED  FAILED \_\_\_\_\_ TABLED \_\_\_\_\_







**NORTH CAROLINA GENERAL ASSEMBLY  
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Comm. Sub. [YES]  
Amends Title [NO]  
S847-CSMN-2

Date \_\_\_\_\_, 2012

Senator Hartsell

1 moves to amend the PCS on page 28, lines 27-33, by rewriting the lines to read:

2 "SECTION 58.1 If House Bill 1075, 2011 Regular Session, becomes law,  
3 G.S. 35A-1213(f), as enacted by Section 12(c) of that act, reads as rewritten:

4 "(f) An individual who contracts with, or is employed by, an entity that contracts  
5 with a local management entity (LME) for the delivery of mental health, developmental  
6 disabilities, and substance abuse services may not serve as a guardian for a ward for whom the  
7 individual or entity is providing such services, unless the individual is a parent of  
8 that ward. The prohibition provided in this subsection shall not apply to a member of the ward's  
9 immediate family who is under contract with a local management entity (LME) for the delivery  
10 of mental health, developmental disabilities, and substance abuse services and is serving as a  
11 guardian as of January 1, 2013. For the purposes of this subsection, the term "immediate  
12 family" is defined as a spouse, child, sibling, parent, grandparent, or grandchild. The term also  
13 includes stepparents, stepchildren, stepsiblings, and adoptive relationships.'

14 SECTION 58.2(a) If House Bill 1075, 2011 Regular Session, does not become  
15 law, G.S. 122C-122 is repealed.

16 SECTION 58.2(b) If House Bill 1075, 2011 Regular Session, does not become  
17 law, G.S. 35A-1202(4) reads as rewritten:

18 '§ 35A-1202. Definitions.

19 When used in the Subchapter, unless a contrary intent is indicated or the context requires  
20 otherwise:

21 ...  
22 (4) "Disinterested public agent" ~~means~~ means

23 a. ~~The~~the director or assistant directors of a ~~local human services~~  
24 ~~agency, or county department of social services.~~

25 b. ~~An adult officer, agent, or employee of a State human services~~  
26 ~~agency. The~~Except as provided in G.S. 35A-1213(f), the fact that a  
27 disinterested public agent ~~is employed by a State or local human~~  
28 ~~services agency that provides financial assistance, services, or~~  
29 ~~treatment to a ward does not disqualify that person from being~~  
30 appointed as guardian.  
31



\* S 8 4 7 - A S Q - 1 5 5 - V - 2 \*

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1           **SECTION 58.2(c)** If House Bill 1075, 2011 Regular Session, does not become  
2 law, G.S. 35A-1213 reads as rewritten:

3 **'§ 35A-1213. Qualifications of guardians.**

4           (a) The clerk may appoint as guardian an adult individual, a corporation, or a  
5 disinterested public agent. The applicant may submit to the clerk the name or names of  
6 potential guardians, and the clerk may consider the recommendations of the next of kin or other  
7 persons.

8           (b) A nonresident of the State of North Carolina, to be appointed as general guardian,  
9 guardian of the person, or guardian of the estate of a North Carolina resident, must indicate in  
10 writing his willingness to submit to the jurisdiction of the North Carolina courts in matters  
11 relating to the guardianship and must appoint a resident agent to accept service of process for  
12 the guardian in all actions or proceedings with respect to the guardianship. Such appointment  
13 must be approved by and filed with the clerk, and any agent so appointed must notify the clerk  
14 of any change in the agent's address or legal residence. The clerk shall require a nonresident  
15 guardian of the estate or a nonresident general guardian to post a bond or other security for the  
16 faithful performance of the guardian's duties. The clerk may require a nonresident guardian of  
17 the person to post a bond or other security for the faithful performance of the guardian's duties.

18           (c) A corporation may be appointed as guardian only if it is authorized by its charter to  
19 serve as a guardian or in similar fiduciary capacities. A corporation shall meet the requirements  
20 outlined in Chapters 55 and 55D of the General Statutes. A corporation will provide a written  
21 copy of its charter to the clerk of superior court. A corporation contracting with a public agency  
22 to serve as guardian is required to attend guardianship training and provide verification of  
23 attendance to the contracting agency.

24           (d) A disinterested public agent who is appointed by the clerk to serve as guardian is  
25 authorized and required to do so; provided, if at the time of the appointment or any time  
26 subsequent thereto the disinterested public agent believes that his role or the role of his agency  
27 in relation to the ward is such that his service as guardian would constitute a conflict of interest,  
28 or if he knows of any other reason that his service as guardian may not be in the ward's best  
29 interest, he shall bring such matter to the attention of the clerk and seek the appointment of a  
30 different guardian. A disinterested public agent who is appointed as guardian shall serve in that  
31 capacity by virtue of his office or employment, which shall be identified in the clerk's order and  
32 in the letters of appointment. When the disinterested public agent's office or employment  
33 terminates, his successor in office or employment, or his immediate supervisor if there is no  
34 successor, shall succeed him as guardian without further proceedings unless the clerk orders  
35 otherwise.

36           (e) Notwithstanding any other provision of this section, an employee of a treatment  
37 facility, as defined in G.S. 35A-1101(16), may not serve as guardian for a ward who is an  
38 inpatient in or resident of the facility in which the employee works; provided, this subsection  
39 shall not apply to or affect the validity of any appointment of a guardian that occurred before  
40 October 1, 1987.

41           (f) An individual who contracts with or is employed by an entity that contracts with a  
42 local management entity (LME) for the delivery of mental health, developmental disabilities,  
43 and substance abuse services may not serve as a guardian for a ward for whom the individual or

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1 entity is providing these services, unless the individual is a parent of that ward. The prohibition  
2 provided in this subsection shall not apply to a member of the ward's immediate family who is  
3 under contract with a local management entity (LME) for the delivery of mental health,  
4 developmental disabilities, and substance abuse services and is serving as a guardian as of  
5 January 1, 2013. For the purposes of this subsection, the term "immediate family" is defined as  
6 a spouse, child, sibling, parent, grandparent, or grandchild. The term also includes stepparents,  
7 stepchildren, stepsiblings, and adoptive relationships.'

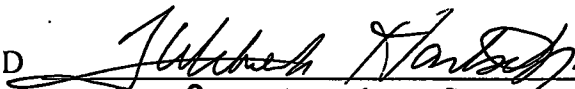
8 SECTION 58.2(d) If House Bill 1075, 2011 Regular Session, does not become  
9 law, G.S. 35A-1292(a) reads as rewritten:

10 '**§ 35A-1292. Resignation.**


11 (a) Any guardian who wishes to resign ~~may apply in writing to the clerk, shall file a~~  
12 motion with the clerk setting forth the circumstances of the case. If a general guardian or  
13 guardian of the estate, at the time of making the application, also exhibits his final account for  
14 settlement, and if the clerk is satisfied that the guardian has fully accounted, the clerk may  
15 accept the resignation of the guardian and discharge him and appoint a successor ~~guardian, but~~  
16 ~~the guardian.~~ The guardian so discharged and his sureties are still liable in relation to all matters  
17 connected with the guardianship before the ~~discharge.~~ discharge and shall continue to ensure  
18 that the ward's needs are met until the clerk officially appoints a successor. The guardian shall  
19 attend the hearing to modify the guardianship, if physically able.'

20 SECTION 58.2(e) If House Bill 1075, 2011 Regular Session, does not become  
21 law, in order to achieve continuity of care and services, any successor guardian shall make  
22 diligent efforts to continue existing contracts entered into under the authority of G.S. 122C-122  
23 where consistent with the best interest of the ward as required by Chapter 35A of the General  
24 Statutes."  
25  
26  
27

SIGNED

  
\_\_\_\_\_  
Amendment Sponsor

SIGNED

  
\_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED



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**MEMORANDUM**

**To:** Senate Committee on Rules, Calendar and Operations of the Senate

**From:** General Statutes Commission

**Re:** SB 847 (General Statutes Comm. Technical Corrections) (PCS)

**Date:** June 26, 2012

**General Comments**

Part I of the proposed committee substitute for this bill contains corrections of a technical nature to the General Statutes that are recommended by the General Statutes Commission. These amendments correct terminology, including names of State agencies and titles of State officials, grammar, typographical errors, redlining errors, and other obvious drafting errors, make conforming changes, update references, delete obsolete provisions, make gender neutral changes in sections that are already being amended, correct the codification of one statute, and expressly authorize the Revisor of Statutes to print drafters' comments to three acts from 2011 in which that authorization was inadvertently not included.

**Specific Comments**

**Section 1** makes conforming amendments to G.S. 7A-60(a1) and G.S. 7A-133(c) to reflect in the codified statutes the actual authorized numbers of assistant district attorneys and magistrates.

In 2010, the General Assembly directed the Administrative Office of the Courts (AOC) to reduce positions in the Judicial Department to comply with budget reductions taken by action of the General Assembly for that Department (S.L. 2010-31, s. 15.14, as added by S.L. 2010-123, s. 6.4). The AOC was further directed to report to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division of the General Assembly, and the Revisor of Statutes on any reductions that affected statutory staffing numbers in Chapter 7A of the General Statutes. The reductions that were made did in fact affect statutory staffing numbers in G.S. 7A-60(a1) (assistant district attorneys) and G.S. 7A-133(c) (magistrates), and the AOC duly reported these reductions by letter dated June 30, 2011, from John Smith, Director of the AOC. The General Statutes Commission is informed that the reductions are permanent. The result is that the codified statutes no longer reflect the numbers actually authorized by the 2010 legislation and need to be conformed.

Subsection (a) of this section is an intent statement to make it clear that this section does not actually make the changes reflected; these have already been made.

Subsection (b) amends G.S. 7A-60(a1) to adjust the numbers of authorized assistant district attorneys to the actual numbers of authorized assistant district attorneys.

Subsection (c) amends G.S. 7A-133(c) to adjust the minimum numbers of magistrates per county to the actual numbers currently authorized.

Subsection (d) amends G.S. 7A-133(c), effective January 1, 2013, to further adjust the minimum numbers of magistrates per county to the actual numbers authorized. The General Statutes Commission is informed that the difference in dates reflects a difference in the expiration of magistrate terms.

Subsection (e) makes subsection (d) effective January 1, 2013, and the remainder of the section effective when it becomes law.

**Section 2** amends **G.S. 7B-1112** to update a citation to G.S. 7B-1103(6) in subdivision (1). This citation should now be to G.S. 7B-1103(a)(6). G.S. 7B-1103 originally contained only what is now current subsection (a), without any subsection designation. It was amended by S.L. 2000-183, s. 4, to add subsection (b), at which time the "(a)" designation was inserted.

**Section 3** amends **G.S. 7B-4002** (designating the Compact Administrator for the Interstate Compact for Juveniles and creating the North Carolina State Council for Interstate Juvenile Supervision to advise the Compact Administrator) to change the references to the "Secretary of the Department of Juvenile Justice" to "Secretary of Public Safety" because of last year's merger of the Departments of Crime Control and Public Safety, Juvenile Justice and Delinquency Prevention, and Corrections into the new Department of Public Safety.

**Subsections 4(a) and (b)** amend **G.S. 14-208.6(5)** and **G.S. 14-208.26(a)**, respectively, to add the word "former" in front of the reference to G.S. 14-27.6, which was repealed by Session Laws 1994, Extra Session, c. 14, s. 71(3).

**Subsections 5(a), (b), (c), and (d)** amend **G.S. 15-196.3**, **15A-821(a)**, **66-58(b)(15)**, and **148-6**, respectively, to remove the word "State" in front of "Division of Adult Correction of the Department of Public Safety," because "State" is not part of that Division's name. **Subsection 5(e)** repeals Section 5 if duplicate amendments are enacted in a different bill.

**Section 6** amends **G.S. 15A-101.1(3a)** to correct the grammar. In the phrase "locations of all person's being electronically monitored," "person's" should be "persons."

**Subsection 7(a)** amends **G.S. 15A-1344(c)** to remove "North Carolina" in front of "Division of Adult Correction of the Department of Public Safety" because "North Carolina" is not part of the Division's name, and **subsection 7(b)** amends **G.S. 15A-1344(d) and (e)** to make gender neutral changes. **Subsection 7(c)** repeals subsection 7(a) if duplicate amendments are enacted in a different bill.

**Section 8** repeals **G.S. 20-9(d)**, which is obsolete. **G.S. 20-9(d)** reads:

(d) No driver's license shall be issued to any applicant who has been previously adjudged insane or an idiot, imbecile, or feebleminded, and who has not at the time of such application been restored to competency by judicial decree or released from a hospital for the insane or feebleminded upon a certificate of the superintendent that such person is competent, nor then unless the Division is satisfied that such person is competent to operate a motor vehicle with safety to persons and property.

This provision is the only remaining place in the General Statutes that refers to a person as an "idiot," "imbecile," or "feebleminded." Both the adjudication and the restoration procedures referenced in this subsection were replaced with more modern procedures decades ago. It is the General Statutes Commission's understanding that other statutes now cover the situations this provision was intended to cover, so that no replacement for this provision is needed.

**Section 9** corrects a grammatical error in **G.S. 20-141(j2)**. "[O]nly if sign are posted" should read "[O]nly if signs are posted."

**Section 10** corrects a typographical error in **G.S. 20-146.2(a)(6)**. "G.S. 29-4.01(12a)" should have been "G.S. 20-4.01(12a)." The definition of "fuel cell electric vehicle" is in **G.S. 20-4.01(12a)**; Chapter 29 of the General Statutes deals with intestate succession.

**Section 11** repeals **Article 11 of Chapter 25** of the General Statutes, which has become obsolete. Article 11 contains transition provisions that were needed when Article 9 (Secured Transactions) of Chapter 25 was amended in 1975. Since that time, Article 9 has been completely revised, effective July 1, 2001, and the 1975 transition provisions are no longer relevant to anything in current Article 9. Article 11 was initially recommended to the states, together with the related Article 9 amendments, by the National Conference of Commissioners on Uniform State Laws, which is now recommending that Article 11 be repealed as obsolete. A copy of Article 11 is attached to the end of this memorandum.

**Section 12** amends **G.S. 28A-2-4(a)(4)** to correct a term. In the phrase "family settlement agreements pursuant to **G.S. 28A-2-10**," "family settlement agreements" should be just "settlement agreements."

What **G.S. 28A-2-10** authorizes the clerks to approve are "settlement agreements," subject to certain conditions. The term "family settlement agreement" is a term of art applied only to settlements of caveat proceedings before a superior court judge. The settlement agreements referred to in **G.S. 28A-2-10** are outside caveat proceedings. The reference in **G.S. 28A-2-4(a)(4)** to the clerk approving "family settlement agreements pursuant to **G.S. 28A-2-10**" is therefore incorrect and also potentially confusing. The amendment made by this section removes the word "family" in **G.S. 28A-2-4(a)(4)** and thereby conforms its terminology to the terminology actually used in **G.S. 28A-2-10**.

**Subsections 13(a) and (b)** make related amendments to **G.S. 28A-5-1(b)** and **G.S. 28A-5-2(b)(1)**, respectively, to correct terminology related to amendments last year by Section 4 of S.L. 2011-344, which comprehensively overhauled the provisions on decedent's estates.

**Subsection 13(a)** amends **G.S. 28A-5-1(b)** to change references to a "motion" to the correct word, "notice." **G.S. 28A-5-1(b)** contains the procedure to be followed when a person named as executor in a will does nothing (that is, neither qualifies as executor nor renounces) within 30 days after the will has been admitted to probate. This person can be compelled to take some action by the clerk of court, who can issue a notice to the person to either qualify or apply for an extension, or, alternatively, by a petition filed by any other interested person for an order deeming the named executor to have renounced. In last year's amendments to **G.S. 28A-5-1(b)**, the word "motion" was incorrectly used to refer to the notice issued by the clerk of court.

**Subsection 13(b)** similarly amends **G.S. 28A-5-2(b)(1)**, which contains parallel provisions dealing with the failure of a person who is entitled to apply for letters of administration but does not apply for them. In this case, not only was "motion" used to refer to the notice issued by the clerk of court, it was also used to refer to the petition that can be filed by any interested person. The amendment by **Subsection 13(b)** substitutes "notice or petition" for "motion" in the appropriate places.

**Section 14** makes a conforming change to the catchline of **G.S. 30-30** by deleting a reference to an order for the appointment of commissioners. The text of **G.S. 30-30** was amended last year by Section 7 of S.L. 2011-344 to remove the provisions for the appointment of commissioners to deal with a narrow issue in connection with an application for an addition to the usual year's allowance from a decedent's estate (all matters are now to be handled by the clerk of superior court). Last year's act failed to make a conforming amendment to the catchline.

**Section 15** amends **G.S. 44A-24.2(3)** to fix incorrect references in sub-subdivisions b. and c. The references in those sub-subdivisions to "subdivision (3)" should have been to "sub-subdivision (3)a."

**Section 16** recodifies **G.S. 62-36A** as **G.S. 62-36.1**. According to codification policy, when inserting a new G.S. section between two existing G.S. sections whose numbers are whole numbers, the new section needs to be given a decimal number (e.g., to insert a new section between **G.S. 62-36** and **G.S. 62-37**, **G.S. 62-36.1** would be correct). The use of a capital letter at the end of a G.S. section number is permissible to insert a new G.S. section between two sections with decimal numbers. The recodification in this section conforms the number of this statute to the policy.

**Section 17** amends **G.S. 63A-3(b)(1)** to insert a missing "the."

**Section 18** amends **G.S. 63A-24** to correct two references to "Chapter 146" of the General Statutes in the last sentence of subdivision (3). The references should have been to "Chapter 126," with the first reference being specifically to **G.S. 126-5(c1)(15)**. **Section 18** also reformats **G.S. 63A-24**.

G.S. 126-5(c1)(15) exempts the employees of the Global Transpark Authority from most of Chapter 126 of the General Statutes (the State Personnel Act). The current last sentence of G.S. 63A-24(3) was added last year by S.L. 2011-340 to allow the Secretary of Transportation to designate employees of the Authority as subject to the rest of Chapter 126. The addition of that sentence to G.S. 63A-24(3) was erroneous, however, because that subdivision exempts the Authority from most of Chapter 146 of the General Statutes. Chapter 146 deals with State Lands, not with employees.

In addition, the last sentence of G.S. 63A-24(3) does not fit in with the lead-in language of the section. Section 18 therefore moves that sentence to become a new subsection (b) and designates pre-2011 portion of G.S. 63A-24 as subsection (a).

**Section 19** amends **G.S. 101-5(f)** to insert a missing word "of." In the fifth (next-to-last) sentence, there should have been an "of" in the phrase "from the date the adverse decision...."

**Subsection 20(a)** amends the catchline of **G.S. 105-187.70** to correct a citation. There is no Article 4 of Chapter 62A of the General Statutes. The intended reference was Article 3, and **Subsection 20(a)** makes this change. **Subsection 20(b)** makes this section effective when G.S. 105-187.70 itself becomes effective (that date is currently July 1, 2013), and also repeals the entire section if the same amendment is enacted in the revenue technical corrections bill (SB 826).

**Subsection 21(a)** amends **G.S. 115C-325(p)** to correct the list of applicable departments and divisions of the Department of Public Safety; **subsection 21(b)** repeals conflicting versions in two other bills if these bills are enacted.

**Subsections 22(a) and (b)** amend **G.S. 120-30.9F** and **G.S. 163-304**, respectively, to complete amendments to these statutes made last year in S.L. 2011-31.

**Subsection 22(a)** amends **G.S. 120-30.9F(2)** to add "county" to the phrase "board of elections" and to move this phrase to follow the words "other municipal agency."

The amendment corrects an amendment made last year by Section 12 of S.L. 2011-31. That act clarified the administration of nonpartisan municipal elections by county boards of elections and, as a part of that effort, removed some obsolete references to municipal boards of elections in different places in the statutes. One of these places was in G.S. 120-30.9F(2), where the 2011 act struck the word "municipal" before "board of elections" in the phrase "municipal governing body or municipal board of elections or any other municipal agency." The result, however, reads "municipal governing body or board of elections ...." Under the normal rules of English grammar, a reader who was not familiar with the legislative history could reasonably think the word "municipal" was supposed to apply to both the "governing body" and the "board of elections," which would defeat the purpose of the 2011 amendment. **Subsection 22(a)** recasts the 2011 amendment to prevent that misinterpretation.



**Subsection 22(b)** amends **G.S. 163-304** to remove obsolete references to municipal election officials that were inadvertently not removed in the amendments to G.S. 163-304 by Section 25 of S.L. 2011-31.

**Section 23** amends **G.S. 120-70.94(a)** in subdivision (a)(1) to update the department references in light of the merger of the Departments of Correction, Crime Control and Public Safety, and Juvenile Justice and Delinquency Prevention into the new Department of Public Safety, and in subdivision (a)(10) to add the department name after the reference to the "Division of Social Services" to make it clear that this reference is not to a division of the Department of Public Safety.

**Section 24** amends **G.S. 122A-3**, the definitions section for the entirety of Chapter 122A of the General Statutes; to correct an obvious error. The word "section" at the end of the introductory language should be "Chapter."

**Section 25** amends **G.S. 126-3(b)** to eliminate a problem with conjunctions. Section 5 of S.L. 2011-224 added a new subdivision (10) to G.S. 126-3(b) but did not move the conjunction "and" from its position between subdivisions (8) and (9). Section 25 permanently corrects that problem and updates the statute to the modern preferred style of ending each subdivision in a period.

**Section 26** amends **G.S. 127A-110(f)** in subdivision (f)(2) to correct the term "section" to "subsection."

**Section 27** amends **G.S. 130A-40.1(b)** to reinsert language that was deleted in 2011 by one act but was needed for an amendment to G.S. 130A-40.1(b) by another act.

Section 1.16 of S.L. 2011-266, effective July 1, 2011, repealed the Public Health Study Commission and made conforming amendments. These included an amendment to G.S. 130A-40.1(b) to delete the last sentence of the subsection, which contained a requirement for the Secretary of Health and Human Services to report certain local health director appointments to the eliminated Commission.

Section 2.46 of S.L. 2011-291, effective June 24, 2011 but enacted after S.L. 2011-266, also amended G.S. 130A-40.1(b). This act changed the recipient of the report required by the last sentence of G.S. 130A-40.1(b) to the new Joint Legislative Oversight Committee on Health and Human Services, apparently not realizing that the rest of that sentence was being deleted a week later.

The General Statutes Commission is informed that the Joint Legislative Oversight Committee on Health and Human Services does need this report.

Section 27 accordingly restores the language deleted by S.L. 2011-266 that is needed for the amendment by S.L. 2011-291.

**Section 28** amends **G.S. 130A-309.10(e)** to insert a missing comma after the word "container."

**Section 29** amends **G.S. 131E-129(a)(1b)** to remove an extraneous "and."

**Section 30** amends **G.S. 135-48.27** to correct a citation. The reference to **G.S. 135-48.22(d)** should be a reference to **G.S. 135-48.23(d)**.

**Section 31** amends **G.S. 135-48.44(a)(2)** to correct a citation. The reference to subsection (c) should have been to subsection (d). Subsection (c) deals with coverage under the State Health Plan for surviving dependent children, and subsection (d) deals with termination of employment.

**Section 32** amends **G.S. 135-48.50** to delete the word "Reserved" at subdivisions (1) and (5). The word "Reserved" was inadvertently underlined in both places in S.L. 2011-85, s. 2.10, which enacted **G.S. 135-48.50**. By underlining the word, the act makes it a part of the enacted statute, whereas "Reserved" used in this fashion (as a placeholder) is normally an editorial insertion by the publisher of the General Statutes. When statutory text is later added at the reserved locations, the editorial insertion does not need to be expressly deleted (since it has not been legislatively inserted). Conversely, when the word "Reserved" is actually inserted by a session law, it does later need to be expressly stricken out. There is obvious potential for confusion, which has already occurred in subdivision (1) of **G.S. 135-48.50**. When the current statutory text at subdivision (1) was inserted by S.L. 2011-145, s. 29.23(c), that act did not strike through the word "Reserved." The word "Reserved" is therefore technically still in the subdivision and needs to be deleted. To avoid similar confusion when text is added at subdivision (5), **Section 32** also strikes out the word "Reserved" at subdivision (5). Please note that the word "Reserved" will continue to appear at subdivision (5). It will simply be the normal, editorially inserted, reserved line that does not need to be legislatively deleted.

**Section 33** amends **G.S. 143-215.1(a6)** to correct a word. The phrase "when the ... work's principle function" should have read "when ... the work's principal function."

**Section 34** amends **G.S. 143C-3-5** to correct three typographical errors. First, in subdivision (b)(3), "Appropriation" should be "Appropriations." Second, in subdivision (b)(4), "G.S. 147-33-72B" should be "G.S. 147-33.72B" (second hyphen should be a period). Third, in subsection (d), the reference to "Section 7(a)" of Article 5 of the North Carolina Constitution should be a reference to "Section 7(1)."

**Section 35** amends **G.S. 153A-155(g)** to place "New Hanover County District U" in the correct location, with other districts and not in the list of counties.

**Section 36** corrects a citation in **G.S. 159-175.10**. The definition of "communications service" is actually in subdivision (3) of **G.S. 160A-340(3)**, not subdivision (2).

**Section 37** amends **G.S. 163-258.30(a)** to correct a typographical error in two citations.

G.S. 163-258.30 was formerly G.S. 163-256. It was moved to new Article 21A of Chapter 163 of the General Statutes by S.L. 2011-182 and renumbered. The 2011 act also amended the statute to replace a reference to "G.S. 163-254 and 163-255" with what should have been the equivalent citations in the new Article; however, the actual new citations inserted were to "G.S. 163-278.23 and G.S. 163-278.24." In both new citations, the "7" was a typographical error; what was intended was "G.S. 163-258.23 and G.S. 163-258.24." Because G.S. 163-258.23 and G.S. 163-258.24 were subsequently recodified as G.S. 163-258.28 and G.S. 163-258.29, however, those numbers are the correct replacements.

**Section 38** amends **subsection 6(c) of S.L. 2011-96** to insert the word "initial" before the word "appointees" (to the Board of Trustees of the State Health Plan). S.L. 2011-85 and S.L. 2011-96 together made amendments to the State Health Plan and provided for a reconstituted Board of Trustees. Subsection 6(c) of S.L. 2011-96 is an uncodified provision that alters the terms of members of the reconstituted Board from the length provided for in the codified statute in order to provide for staggered terms, and so would only apply to initial appointees. The word "initial" was, however, inadvertently omitted.

**Section 39** amends **subsection 19.1(g) of S.L. 2011-145** to delete from the list in that subsection certain sections in Chapter 143A that should not have been included.

Subsection 19.1(g) contains a list of sections where the Revisor of Statutes was directed to substitute "Public Safety" in place of "Crime Control and Public Safety" because of the creation of the Department of Public Safety from the former Departments of Correction, Juvenile Justice and Delinquency Provision, and Crime Control and Public Safety. The substitutions were conforming changes. The references to "Crime Control and Public Safety" in the listed sections in Chapter 143A, however, were historical references dealing with an earlier governmental reorganization. In these sections, the department name should not have been changed because the reference was to a historical happening at a time when the Department of Public Safety did not exist.

**Section 40** repeals **Section 25 of S.L. 2011-284** to eliminate some "garbage language" in **G.S. 30-32**.

G.S. 30-32 was affected by two different session laws in the 2011 session. S.L. 2011-284, s. 25, effective June 24, 2011, amended the statute by changing "distributee or legatee" to "distributee, or devisee" as part of a project to update terminology and make terms more uniform in connection with takers of property by will. S.L. 2011-344, s. 7, effective January 1, 2012, eliminated the text of the statute by striking through it, but the text used did not reflect the first 2011 amendment and did not strike out ", or devisee." As a result, the phrase ", or devisee" technically still remains. Repealing S.L. 2011-284, s. 25, eliminates the problem.

**Section 41** amends the introductory language of **S.L. 2011-326, s. 12(b)**, to correct an error in the identification of the statute being amended. The introductory language states that it is amending "G.S. 7B-1110.1(a)." There is, however, no G.S. 7B-1110.1. The intended statute is **G.S. 7B-1101.1**.

**Section 42** corrects the prefatory language of **Section 30 of S.L. 2011-391** to use the amendatory phrasing that was actually intended. That subsection intended to replace the original text of subsection 13.22(b) of S.L. 2011-145 with new text but used an incorrect format to do so. Using "is rewritten to read:" as the amendatory phrase will cause the result intended, and Section 42 makes that change.

**Section 43** expressly authorizes the printing of drafters comments to the amendments to the North Carolina Uniform Trust Code, Chapter 36C of the General Statutes, that were made by S.L. 2012-344 and S.L. 2012-339. This authorization was inadvertently omitted from those acts.

**Section 44** expressly authorizes the printing of a drafters comment for new G.S. 6-21.6. Express authorization was inadvertently omitted from S.L. 2011-341, which enacted the statute. Although there is general authorization in G.S. 164-10 to publish an annotated code, it has been the custom for some years now to include express authorization for comments.

**Part 2** of this bill contains additional amendments that were not part of the General Statutes Commission's recommendations.

The last section of this bill makes the bill effective when it becomes law, except where otherwise provided.

## APPENDIX

### Article 11 of Chapter 25 of the General Statutes. 1975 Amendatory Act – Effective Date and Transition Provisions.

#### § 25-11-101. Effective date.

This act shall become effective at 12:01 A.M. on July 1, 1976. (1975, c. 862, s. 8.)

#### § 25-11-101.1. Definitions.

(1) As used in this article, "old article 9" means: G.S. 25-1-105, 25-1-201(9), 25-1-201(37), 25-2-107, 25-5-116, and article 9 of chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, as they are in effect on June 30, 1976, immediately prior to the effective date of this act.

(2) As used in this article, "new article 9" means: G.S. 25-1-105, 25-1-201(9), 25-1-201(37), 25-2-107, 25-5-116, and article 9 of chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, as said provisions are enacted pursuant to this act, as of July 1, 1976, its effective date. (1975, c. 862, s. 8.)

#### § 25-11-102. Preservation of old transition provisions.

The provisions of article 10 of chapter 25 of the General Statutes of North Carolina, Uniform Commercial Code, G.S. 25-10-101 through 25-10-106, thereof shall continue to apply to new article 9, and for this purpose the old article 9 and the new article 9 shall be considered one continuous statute. (1975, c. 862, s. 8.)

#### § 25-11-103. Transition to new article 9; general rule.

(1) Transactions validly entered into after midnight on June 30, 1967, and before July 1, 1976, and which were subject to the provisions of old article 9 and which would be subject to this act as amended if they had been entered into after July 1, 1976, and the rights, duties and interests following from such transactions remain valid after the latter date and may be terminated, completed, consummated or enforced as required or permitted by the new article 9.

(2) Security interests arising out of such transactions which are perfected when new article 9 becomes effective shall remain perfected until they lapse as provided in new article 9, and may be continued as permitted by new article 9, except as stated in G.S. 25-11-105. (1975, c. 862, s. 8.)

#### § 25-11-104. Transition provisions on change of requirement of filing.

A security interest for the perfection of which filing or the taking of possession was required under old article 9 and which attached prior to July 1, 1976, but was not perfected shall be deemed perfected on July 1, 1976, if new article 9 permits perfection without filing or authorizes filing in the office or offices where prior ineffective filing was made. (1975, c. 862, s. 8.)

#### § 25-11-105. Transition provisions on change of place of filing.

(1) A financing statement or continuation statement filed prior to July 1, 1976, which shall not have lapsed prior to July 1, 1976, shall remain effective for the period provided in the old article 9, but not less than five years after the filing.

(2) With respect to any collateral acquired by the debtor subsequent to July 1, 1976, any effective financing statement or continuation statement described in this section shall apply only

if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under new article 9.

(3) The effectiveness of any financing statement or continuation statement filed prior to July 1, 1976, may be continued by a continuation statement as permitted by new article 9, except that if new article 9 requires a filing in an office where there was no previous financing statement, a new financing statement conforming to G.S. 25-11-106 shall be filed in that office.

(4) If the record of a mortgage of, or a deed of trust on, real estate would have been effective as a fixture filing of goods described therein if new article 9 had been in effect on the date of recording the mortgage or deed of trust, the mortgage or deed of trust shall be deemed effective as a fixture filing as to such goods under subsection (6) of G.S. 25-9-402 of the new article 9 on July 1, 1976. (1975, c. 862, s. 8.)

#### **§ 25-11-106. Required refilings.**

(1) If a security interest is perfected or has priority when this act takes effect as to all persons or as to certain persons without any filing or recording, and if the filing of a financing statement would be required for the perfection or priority of the security interest against those persons under new article 9, the perfection and priority rights of the security interest continue until three years after July 1, 1976. The perfection will then lapse unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(2) If a security interest is perfected when new article 9 takes effect under a law other than chapter 25 of the General Statutes, Uniform Commercial Code, which requires no further filing, refiling or recording to continue its perfection, perfection continues until and will lapse three years after new article 9 takes effect, unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing, or unless under subsection (3) of G.S. 25-9-302 the other law continues to govern filing.

(3) If a security interest is perfected by a filing, refiling or recording under a law repealed by this act which required further filing, refiling or recording to continue its perfection, perfection continues and will lapse on the date provided by the law so repealed for such further filing, refiling or recording unless a financing statement is filed as provided in subsection (4) or unless the security interest is perfected otherwise than by filing.

(4) A financing statement may be filed within six months before the perfection of a security interest which would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. It must identify the security agreement, statement or notice (however denominated in any statute or other law repealed or modified by this act), state the office where and the date when the last filing, refiling or recording, if any, was made with respect thereto, and the filing number, if any, or book and page, if any, of recording and further state that the security agreement, statement or notice, however denominated, in another filing office under chapter 25, Uniform Commercial Code, or under any statute or other law repealed or modified by this act is still effective. G.S. 25-9-401 and 25-9-103 determine the proper place to file such a financing statement. Except as specified in this subsection, the provisions of G.S. 25-9-403(3) for continuation statements apply to such a financing statement. (1975, c. 862, s. 8.)

#### **§ 25-11-107. Transition provisions as to priorities.**

Except as otherwise provided in article 11, old article 9 shall apply to any questions of priority if the positions of the parties were fixed prior to July 1, 1976. In other cases questions of priority shall be determined by new article 9. (1975, c. 862, s. 8.)

**§ 25-11-108. Presumption that rule of law continues unchanged.**

Unless a change in law has clearly been made, the provisions of new article 9 shall be deemed declaratory of the meaning of the old article 9. (1975, c. 862, s. 8.)

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 953  
Committee Substitute Favorable 6/21/12

Short Title: Environmental Technical Corrections 2012.

(Public)

Sponsors:

Referred to:

May 17, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS  
3 TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL RESOURCES,  
4 AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 113-182.1(e) reads as rewritten:

7 "(e) The Secretary of Environment and Natural Resources shall monitor progress in the  
8 development and adoption of Fishery Management Plans in relation to the Schedule for  
9 development and adoption of the plans established by the Marine Fisheries Commission. The  
10 Secretary of Environment and Natural Resources shall report to the Joint Legislative  
11 Commission on Governmental Operations on progress in developing and implementing the  
12 Fishery Management Plans on or before 1 September of each year. The Secretary of  
13 Environment and Natural Resources shall report to the ~~Joint Legislative Commission on~~  
14 ~~Seafood and Aquaculture~~ Joint Legislative Commission on Governmental Operations within 30  
15 days of the completion or substantial revision of each proposed Fishery Management Plan. The  
16 Joint Legislative Commission on Governmental Operations shall review each proposed Fishery  
17 Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary.  
18 The Joint Legislative Commission on Governmental Operations may submit comments and  
19 recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed  
20 Plan is submitted by the Secretary."

21 SECTION 2.(a) G.S. 113A-115.1 is amended by adding a new subsection to read:

22 "§ 113A-115.1. Limitations on erosion control structures.

23 ...

24 (i) No later than September 1 of each year, the Coastal Resources Commission shall  
25 report to the Environmental Review Commission on the implementation of this section. The  
26 report shall provide a detailed description of each proposed and permitted terminal groin and its  
27 accompanying beach fill project, including the information required to be submitted pursuant to  
28 subsection (e) of this section. For each permitted terminal groin and its accompanying beach  
29 fill project, the report shall also provide all of the following:

- 30 (1) The findings of the Commission required pursuant to subsection (f) of this  
31 section.  
32 (2) The status of construction and maintenance of the terminal groin and its  
33 accompanying beach fill project, including the status of the implementation  
34 of the plan for construction and maintenance and the inlet management plan.  
35 (3) A description and assessment of the benefits of the terminal groin and its  
36 accompanying beach fill project, if any.





1           (4) A description and assessment of the adverse impacts of the terminal groin  
2           and its accompanying beach fill project, if any, including a description and  
3           assessment of any mitigation measures implemented to address adverse  
4           impacts."

5           SECTION 2.(b) Section 5 of S.L. 2011-387 is repealed.

6           SECTION 3. G.S. 130A-309.10(k) reads as rewritten:

7           "(k) A county or city may petition the Department for a waiver from the prohibition on  
8 disposal of a material described in subdivisions (9), (10), ~~(11) and (12)~~(11), (12), and (13) of  
9 subsection (f) of this section and subsection (f3) of this section in a landfill based on a showing  
10 that prohibiting the disposal of the material would constitute an economic hardship."

11           SECTION 4. The title of Part 2 of Article 3B of Chapter 143 of the General  
12 Statutes reads as rewritten:

13           "Part 2. ~~Guaranteed Energy Savings Contracts for~~Energy Saving Measures for Governmental  
14           Units."

15           SECTION 5.(a) G.S. 143-214.11 is amended by adding two new subsections to  
16 read:

17           "**§ 143-214.11. Ecosystem Enhancement Program: compensatory mitigation.**

18           ...

19           (i) The Ecosystem Enhancement Program shall exercise its authority to provide for  
20 compensatory mitigation under the authority granted by this section to use mitigation  
21 procurement programs in the following order of preference:

22           (1) Full delivery/bank credit purchase program. – The Ecosystem Enhancement  
23 Program shall first seek to meet compensatory mitigation procurement  
24 requirements through the Program's full delivery program or by the purchase  
25 of credits from a private compensatory mitigation bank.

26           (2) Existing local compensatory mitigation bank credit purchase program. –  
27 Any compensatory mitigation procurement requirements that are not  
28 fulfillable under subdivision (1) of this subsection shall be procured from an  
29 existing local compensatory mitigation bank, provided that the credit  
30 purchase is made to mitigate the impacts of a project located within the  
31 mitigation bank service area and hydrologic area of the existing local  
32 compensatory mitigation bank.

33           (3) Design/build program. – Any compensatory mitigation procurement  
34 requirements that are not fulfillable under subdivision (1) or (2) of this  
35 subsection shall be procured under a program in which Ecosystem  
36 Enhancement Program contracts with one private entity to lead or implement  
37 the design, construction, and postconstruction monitoring of compensatory  
38 mitigation at sites obtained by the Ecosystem Enhancement Program. Such a  
39 program shall be considered the procurement of compensatory mitigation  
40 credits.

41           (4) Design-bid-build program. – Any compensatory mitigation procurement  
42 requirements that are not fulfillable under either subdivision (1) or (2) of this  
43 subsection may be procured under the Ecosystem Enhancement Program's  
44 design-bid-build program. The Ecosystem Enhancement Program may  
45 utilize this program only when procurement under subdivision (1) or (2) of  
46 this subsection is not feasible. Any mitigation site design work currently  
47 being performed through contracts awarded under the design-bid-build  
48 program shall be allowed to continue as scheduled. Contracts for  
49 construction of projects with a design already approved by the Ecosystem  
50 Enhancement Program shall be awarded by the Ecosystem Enhancement  
51 Program by issuing a Request for Proposal (RFP). Only contractors who

have prequalified under procedures established by the Ecosystem Enhancement Program shall be eligible to bid on Ecosystem Enhancement Program construction projects. Construction contracts issued under this subdivision shall be exempt from the requirements of Article 8B of Chapter 143 of the General Statutes.

(i) The regulatory requirements for the establishment, operation, and monitoring of a compensatory mitigation bank or full delivery project shall vest at the time of the execution of the mitigation banking instrument or the award of a full delivery contract."

SECTION 5.(b) Sections 1.2 and 1.3 of S.L. 2011-343 are repealed.

SECTION 6. G.S. 143B-279.8(f) reads as rewritten:

"(f) The Secretary of Environment and Natural Resources shall report to the Environmental Review Commission and the ~~Joint Legislative Commission on Seafood and Aquaculture~~ ~~[Joint Legislative Commission on Governmental Operations]~~ Joint Legislative Commission on Governmental Operations within 30 days of the completion or substantial revision of each draft Coastal Habitat Protection Plan. The Environmental Review Commission and the Joint Legislative Commission on Governmental Operations shall concurrently review each draft Coastal Habitat Protection Plan within 30 days of the date the draft Plan is submitted by the Secretary. The Environmental Review Commission and the Joint Legislative Commission on Governmental Operations may submit comments and recommendations on the draft Plan to the Secretary within 30 days of the date the draft Plan is submitted by the Secretary."

SECTION 7. G.S. 143B-344.37(b)(1) reads as rewritten:

**"§ 143B-344.37. (Expires June 30, 2016) North Carolina Sustainable Communities Grant Fund.**

...

(b) Purposes. – Funds in the North Carolina Sustainable Communities Grant Fund shall be used, as available, to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions, to increase the capacity to improve land use and zoning and to provide up to fifty percent (50%) of any required local matching funds for recipients of Federal Sustainable Communities Planning Grants and any other federal grants related to sustainable development and requiring local matching funds. In order to receive funds under this section, regions must meet all of the following requirements:

(1) The regional body, city, or county is a part of a regional sustainable development partnership that includes any of the metro regions as defined in ~~G.S. 143B-344.38(b)~~ G.S. 143B-344.38(c). Partnerships may also include any Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.

...."

SECTION 8. G.S. 143B-344.38 reads as rewritten:

**"§ 143B-344.38. (Expires June 30, 2016) North Carolina Sustainable Communities Task Force – reports.**

(a) Beginning in 2011, the Task Force shall report to the Governor, the chairs of the ~~House Commerce, Small Business, and Entrepreneurship Committee~~ House Committee on Commerce and Job Development, and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

...

(b) Prior to awarding any funding under G.S. 143B-344.37 and no later than February 1, 2011, the Task Force shall report to the ~~House Commerce, Small Business, and Entrepreneurship Committee~~ House Committee on Commerce and Job Development and the

1 Senate Commerce Committee regarding the sustainable practices scoring system developed in  
2 accordance with G.S. 143B-344.35(7).

3 ...."

4 **SECTION 9.** G.S. 143B-432(a) reads as rewritten:

5 "(a) The Division of Economic Development of the Department of Natural and  
6 Economic Resources, the Science and Technology Committee of the Department of Natural  
7 and Economic Resources, and the Science and Technology Research Center of the Department  
8 of Natural and Economic Resources Resources, and the Western North Carolina Public Lands  
9 Council of the Department of Natural and Economic Resources are each hereby transferred to  
10 the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6."

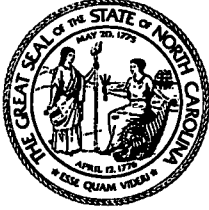
11 **SECTION 10.** G.S. 18B-1105(b) reads as rewritten:

12 "**§ 18B-1105. Authorization of distillery permit.**

13 ...

14 (b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating  
15 Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition),  
16 201.64 through 201.65 or Part 201.131 through 201.138 shall obtain a fuel alcohol permit  
17 before manufacturing any alcohol. The permit shall entitle the permittee to perform only those  
18 acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating  
19 Permit shall apply to the State permit."

20 **SECTION 11.** This act is effective when it becomes law.



# HOUSE BILL 953: Environmental Technical Corrections 2012

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Reps. Gillespie, Samuelson  
**Analysis of:** Second Edition

**Date:** June 27, 2012  
**Prepared by:** Mariah Matheson  
Research Assistant

**SUMMARY:** *House Bill 953 would make clarifying, conforming, and technical amendments to various laws related to environment and natural resources.*

[As introduced, this bill was identical to S809, as introduced by Sen. Rouzer, which is currently in Senate Agriculture/Environment/Natural Resources.]

**BILL ANALYSIS:** **BILL ANALYSIS:** House Bill 953 would make the following technical corrections:

**Sections 1 and 6** would remove references to an expired Commission (Joint Legislative Commission on Seafood and Aquaculture). In 2011, the duties of the Joint Legislative Commission on Seafood and Aquaculture were transferred to the Joint Legislative Commission on Governmental Operations (S.L. 2011-291, Section 1.2(b)).

**Sections 2.(a) and 2.(b)** would codify Section 5 of S.L. 2011-387, which requires the Coastal Resources Commission to annually report to the Environmental Review Commission on the implementation of the 2011 terminal groin legislation. This amendment is at the recommendation of the Revisor of Statutes.

**Section 3** would make conforming changes to the solid waste statutes related to the prohibition of acts relating to packaging, coded labeling of plastic containers, and disposal of certain solid wastes in landfills or by incineration.

**Section 4** would change the title of Part 2 of Article 3B of Chapter 143 of the General Statutes to include recent amendments. In 2011, the Board of Governors authorized North Carolina State University to implement energy conservation measures (S.L. 2011-145, Section 9.6D). This amendment is at the recommendation of the Revisor of Statutes.

**Sections 5.(a) and 5.(b)** would codify the substantive provisions of Sections 1.2 and 1.3 of S.L. 2011-343, as they pertain to compensatory mitigation under the Ecosystem Enhancement Program. This amendment is at the recommendation of the Revisor of Statutes.

**Section 7** would amend an incorrect statutory reference in G.S. 143B-344.37 (North Carolina Sustainable Communities Task Force).

**Section 8** would update a statutory reporting requirement to reflect committee restructuring. During the 2011 Regular Session, the House of Representatives restructured House committees, combining like subjects into larger, broader committees. The House Commerce, Small Business, and Entrepreneurship Committee was consolidated into the House Committee on Commerce and Job Development.

**Section 9** would remove a reference to the Western North Carolina Public Lands Council (*formerly the North Carolina National Park, Parkway and Forests Development Council*) within the Department of Commerce. The Council was transferred to the Department of Environment and Natural Resources in 1997 and was renamed in 2010.

**Section 10** would revise an outdated citation to the Alcohol and Tobacco Tax and Trade Bureau regulations of the federal code.

# House Bill 953

Page 2

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

*H953-SMTF-50(e2) v1*



**NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 953**

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

H953-ASB-96 [v.1]

Page 1 of 2

Comm. Sub. [YES]  
Amends Title [YES]  
Second Edition

Date \_\_\_\_\_, 2012

Senator Brown

1 moves to amend the Short Title of the bill by deleting "Environmental Technical Corrections  
2 2012." and substituting "Amend Environmental Laws 2."

3  
4 and, on page 1, lines 3 and 4,  
5 by rewriting those lines to read:

6  
7 "TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL  
8 RESOURCES AND DELAY THE IMPLEMENTATION DEADLINE FOR LOCAL  
9 STORMWATER MANAGEMENT PROGRAMS UNDER THE JORDAN LAKE NEW  
10 DEVELOPMENT RULE."

11  
12 and, on page 4, line 20,  
13 by rewriting that line to read:

14  
15 "SECTION 11.(a) Definition. – As used in this act, "New Development Rule 15A  
16 NCAC 02B .0265" means 15A NCAC 02B .0265 (Jordan Water Supply Nutrient Strategy:  
17 Stormwater Management for New Development) adopted by the Commission on May 8, 2008,  
18 and approved by the Rules Review Commission on November 20, 2008.

19 SECTION 11.(b) New Development Rule 15A NCAC 02B .0265. – Until the  
20 effective date of the revised permanent rule that the Commission is required to adopt pursuant  
21 to Section 11(d) of this act, the Commission and the Department shall implement New  
22 Development Rule 15A NCAC 02B .0265, as provided in Section 11(c) of this act.

23 SECTION 11.(c) Implementation. – Notwithstanding sub-subdivision (d) of  
24 subdivision (4) of New Development Rule 15A NCAC 02B .0265, by August 10, 2014, within  
25 three months after the Commission's approval of a local program, or upon the Division's first  
26 renewal of a local government's NPDES stormwater permit, whichever occurs later, the  
27 affected local government shall complete adoption of and implement its local stormwater  
28 management program.

29 SECTION 11.(d) Additional Rule-Making Authority. – The Commission shall  
30 adopt a rule to replace New Development Rule 15A NCAC 02B .0265. Notwithstanding  
31 G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be  
32 substantively identical to the provisions of Section 11(c) of this act. Rules adopted pursuant to



\* H 9 5 3 - A S B - 9 6 - V - 1 \*

**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
House Bill 953

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

H953-ASB-96 [v.1]

Page 2 of 2

1 this section are not subject to G.S. 150B-21.8 through G.S. 150B-21.14. Rules adopted  
2 pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10  
3 or more written objections had been received as provided by G.S. 150B-21.3(b2).

4           **SECTION 11.(e)** Sunset. – Section 11(c) of this act expires on the date that rules  
5 adopted pursuant to Section 11(d) of this act become effective.

6           **SECTION 12.** This act is effective when it becomes law."

SIGNED \_\_\_\_\_

Amendment Sponsor

SIGNED \_\_\_\_\_

Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 953

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

H953-ARI-81 [v.5]

Page 1 of 3

Comm. Sub. [YES]  
Amends Title [YES]  
Second Edition

Date \_\_\_\_\_, 2012

Senator Rabon

1 moves to amend the Short Title of the bill by deleting "Environmental Technical Corrections  
2 2012." and substituting "Amend Environmental Laws 2.";

3  
4

5 and moves to amend the bill on page 1, line 4,  
6 by rewriting that line to read:

7

8 "AND TO MAKE CHANGES TO THE CLEAN ENERGY AND ECONOMIC SECURITY  
9 ACT.";

10  
11

12 and on page 4, line 20,  
13 by rewriting that line to read:

14

15 "SECTION 11.(a) If Senate Bill 820, 2012 Regular Session, becomes law, then  
16 Section 2.(j) of that act reads as rewritten:

17

18 "SECTION 2.(j) The Mining and Energy Commission, in conjunction with the  
19 Department of Environment and Natural Resources, the Department of Transportation, the  
20 North Carolina League of Municipalities, and the North Carolina Association of County  
21 Commissioners, shall identify appropriate levels of funding and potential sources for that  
22 funding, including permit fees, bonds, taxes, and impact fees, necessary to (i) support local  
23 governments impacted by the industry and associated activities; (ii) address expected  
24 infrastructure impacts, including, but not limited to, repair of roads damaged by truck traffic  
25 and heavy equipment; (iii) cover any costs to the State for administering an oil and gas  
26 regulatory program, including remediation and reclamation of drilling sites when necessary due  
27 to abandonment or insolvency of an oil or gas operator or other responsible party; and (iv) any  
28 other issues that may need to be addressed in the Commission's determination. Any  
29 recommendation concerning local impact fees shall be formulated to require that all such fees  
30 be used exclusively to address infrastructure impacts from the drilling operation for which a fee  
31 is imposed. The Commission shall report its findings and recommendations, including  
32 legislative proposals, to the Joint Legislative Commission on Energy Policy, created under  
33 Section 6(a) of this act, and the Environmental Review Commission on or before January  
October 1, 2013."





**NORTH CAROLINA GENERAL ASSEMBLY**  
**AMENDMENT**  
**House Bill 953**

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

H953-ARI-81 [v.5]

Page 2 of 3

1           **SECTION 11.(b)** If Senate Bill 820, 2012 Regular Session, becomes law, then  
2 Section 2.(k) of that act reads as rewritten:

3           **"SECTION 2.(k)** The Mining and Energy Commission, in conjunction with the  
4 Department of Environment and Natural Resources, the North Carolina League of  
5 Municipalities, and the North Carolina Association of County Commissioners, shall examine  
6 the issue of local government regulation of oil and gas exploration and development activities,  
7 and the use of horizontal drilling and hydraulic fracturing for that purpose. The Commission  
8 shall formulate recommendations that maintain a uniform system for the management of such  
9 activities, which allow for reasonable local regulations, including required setbacks,  
10 infrastructure placement, and light and noise restrictions, that do not prohibit or have the effect  
11 of prohibiting oil and gas exploration and development activities, and the use of horizontal  
12 drilling and hydraulic fracturing for that purpose, or otherwise conflict with State law. The  
13 Commission shall report its findings and recommendations, including legislative proposals, to  
14 the Joint Legislative Commission on Energy Policy, created under Section 6(a) of this act, and  
15 the Environmental Review Commission on or before ~~January~~October 1, 2013."

16           **SECTION 11.(c)** If Senate Bill 820, 2012 Regular Session, becomes law, then  
17 Section 2.(l) of that act reads as rewritten:

18           **"SECTION 2.(l)** The Mining and Energy Commission, in conjunction with the  
19 Department of Environment and Natural Resources and the Consumer Protection Division of  
20 the North Carolina Department of Justice, shall study the State's current law on the issue of  
21 integration or compulsory pooling and other states' laws on the matter. The Department shall  
22 report its findings and recommendations, including legislative proposals, to the Joint  
23 Legislative Commission on Energy Policy, created under Section 6(a) of this act, and the  
24 Environmental Review Commission on or before ~~January~~October 1, 2013."

25           **SECTION 11.(d)** If Senate Bill 820, 2012 Regular Session, becomes law, then  
26 G.S. 113-423(j), as enacted by Section 4.(d) of that act, reads as rewritten:

27           "(j)   ~~Three-Day~~Seven-Day Right of Rescission. – Any lease of oil or gas rights or any  
28 other conveyance of any kind separating rights to oil or gas from the freehold estate of surface  
29 property shall be subject to a ~~three-day~~seven-day right of rescission in which the lessor or  
30 lessee may cancel the lease. A bold and conspicuous notice of this right of rescission shall be  
31 included in all such leases. In order to cancel the lease, the lessor or lessee shall notify the other  
32 party in writing within ~~three~~seven business days of execution of the lease, and the lessor shall  
33 return any sums paid by the lessee to the lessor under the terms of the lease."

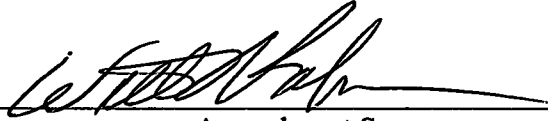
34           **SECTION 12.** Sections 11.(a) through 11.(c) of this act become effective August  
35 1, 2012. Section 11.(d) of this act is effective when it becomes law, and applies to leases or  
36 contracts entered into on or after that date. The remainder of this act is effective when it  
37 becomes law."

NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 953

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

H953-ARI-81 [v.5]

Page 3 of 3

SIGNED  \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

3

HOUSE BILL 799  
Second Edition Engrossed 6/6/11  
Senate Commerce Committee Substitute Adopted 6/7/12

Short Title: Licensure by Endorsement/Military/Spouses.

(Public)

Sponsors:

Referred to:

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW LICENSURE BY ENDORSEMENT FOR MILITARY PERSONNEL  
3 AND MILITARY SPOUSES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 93B of the General Statutes is amended by adding a new  
6 section to read:

7 **"§ 93B-15.1. Licensure for individuals with military training and experience; licensure by**  
8 **endorsement for military spouses; temporary license.**

9 (a) Notwithstanding any other provision of law, an occupational licensing board, as  
10 defined in G.S. 93B-1, shall issue a license, certification, or registration to a military-trained  
11 applicant to allow the applicant to lawfully practice the applicant's occupation in this State if,  
12 upon application to an occupational licensing board, the applicant satisfies the following  
13 conditions:

- 14 (1) Has completed a military program of training, been awarded a military  
15 occupational specialty, and performed in that specialty at a level that is  
16 substantially equivalent to or exceeds the requirements for licensure,  
17 certification, or registration of the occupational licensing board for which the  
18 applicant is seeking licensure, certification, or registration in this State.  
19 (2) Has engaged in the active practice of the occupation for which the person is  
20 seeking a license, certification, or permit from the occupational licensing  
21 board in this State for at least two of the five years preceding the date of the  
22 application under this section.  
23 (3) Has not committed any act in any jurisdiction that would have constituted  
24 grounds for refusal, suspension, or revocation of a license to practice that  
25 occupation in this State at the time the act was committed.  
26 (4) Pays any fees required by the occupational licensing board for which the  
27 applicant is seeking licensure, certification, or registration in this State.

28 (b) Notwithstanding any other provision of law, an occupational licensing board, as  
29 defined in G.S. 93B-1, shall issue a license, certification, or registration to a military spouse to  
30 allow the military spouse to lawfully practice the military spouse's occupation in this State if,  
31 upon application to an occupational licensing board, the military spouse satisfies the following  
32 conditions:

- 33 (1) Holds a current license, certification, or registration from another  
34 jurisdiction, and that jurisdiction's requirements for licensure, certification,  
35 or registration are substantially equivalent to or exceed the requirements for



\* H 7 9 9 - V - 3 \*

1                   licensure, certification, or registration of the occupational licensing board for  
2                   which the applicant is seeking licensure, certification, or registration in this  
3                   State.

4                   (2)   Can demonstrate competency in the occupation through methods as  
5                   determined by the Board, such as having completed continuing education  
6                   units or having had recent experience for at least two of the five years  
7                   preceding the date of the application under this section.

8                   (3)   Has not committed any act in any jurisdiction that would have constituted  
9                   grounds for refusal, suspension, or revocation of a license to practice that  
10                  occupation in this State at the time the act was committed.

11                  (4)   Is in good standing and has not been disciplined by the agency that had  
12                  jurisdiction to issue the license, certification, or permit.

13                  (5)   Pays any fees required by the occupational licensing board for which the  
14                  applicant is seeking licensure, certification, or registration in this State.

15                  (c)   All relevant experience of a military service member in the discharge of official  
16                  duties or, for a military spouse, all relevant experience, including full-time and part-time  
17                  experience, regardless of whether in a paid or volunteer capacity, shall be credited in the  
18                  calculation of years of practice in an occupation as required under subsection (a) or (b) of this  
19                  section.

20                  (d)   A nonresident licensed, certified, or registered under this section shall be entitled to  
21                  the same rights and subject to the same obligations as required of a resident licensed, certified,  
22                  or registered by an occupational licensing board in this State.

23                  (e)   Nothing in this section shall be construed to apply to the practice of law as regulated  
24                  under Chapter 84 of the General Statutes.

25                  (f)   An occupational licensing board may issue a temporary practice permit to a  
26                  military-trained applicant or military spouse licensed, certified, or registered in another  
27                  jurisdiction while the military-trained applicant or military spouse is satisfying the  
28                  requirements for licensure under subsection (a) or (b) of this section if that jurisdiction has  
29                  licensure, certification, or registration standards substantially equivalent to the standards for  
30                  licensure, certification, or registration of an occupational licensing board in this State. The  
31                  military-trained applicant or military spouse may practice under the temporary permit until a  
32                  license, certification, or registration is granted or until a notice to deny a license, certification,  
33                  or registration is issued in accordance with rules adopted by the occupational licensing board.

34                  (g)   An occupational licensing board may adopt rules necessary to implement this  
35                  section.

36                  (h)   Nothing in this section shall be construed to prohibit a military-trained applicant or  
37                  military spouse from proceeding under the existing licensure, certification, or registration  
38                  requirements established by an occupational licensing board in this State.

39                  (i)   For the purposes of this section, the State Board of Education shall be considered an  
40                  occupational licensing board when issuing teacher licenses under G.S. 115C-296.

41                  (j)   For the purposes of this section, the North Carolina Medical Board shall not be  
42                  considered an occupational licensing board."

43                  **SECTION 2.** Within one year from the effective date of this act, each occupational  
44                  licensing board regulating an occupation in this State and subject to the provisions of Chapter  
45                  93B of the General Statutes shall implement the requirements of G.S. 93B-15.1, as enacted by  
46                  Section 1 of this act.

47                  **SECTION 3.** The Legislative Research Commission shall study the issue of  
48                  allowing licensure by the North Carolina Medical Board for individuals with military training  
49                  and experience, for military spouses by endorsement, and for temporary licenses for  
50                  military-trained applicants or military-spouse applicants. The Commission shall make a report

1 on this issue, including any recommendations or legislative proposals, to the 2013 Regular  
2 Session of the General Assembly upon its convening.

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



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 799

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

H799-ASU-18 [v.1]

Page 1 of 1

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

Date \_\_\_\_\_, 2012

Sen. Braun  
Representative

1 moves to amend the bill on page 1, lines 14-18, by rewriting the lines to read:  
2       "(1) Has been awarded a military occupational specialty and has done all of the  
3       following at a level that is substantially equivalent to or exceeds the  
4       requirements for licensure, certification, or registration of the occupational  
5       licensing board from which the applicant is seeking licensure, certification,  
6       or registration in this State: completed a military program of training,  
7       completed any applicable testing requirements, and performed in the  
8       occupational specialty."

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 837  
Committee Substitute Favorable 5/31/11  
PROPOSED COMMITTEE SUBSTITUTE H837-CSTL-35 [v.1]

6/26/2012 5:36:56 PM

Short Title: Completion of CPR by Students Required.

(Public)

Sponsors:

Referred to:

April 7, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE SUCCESSFUL COMPLETION OF INSTRUCTION IN CPR  
3 AVAILABLE TO ALL STUDENTS WITH A PLAN TO PHASE IN COMPLETION OF  
4 CPR INSTRUCTION AS A HIGH SCHOOL GRADUATION REQUIREMENT BY 2015.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-81(e1)(1) reads as rewritten:

7 "(e1) School Health Education Program to Be Developed and Administered.

8 (1) A comprehensive school health education program shall be developed and  
9 taught to pupils of the public schools of this State from kindergarten through  
10 ninth grade. This program includes age-appropriate instruction in the  
11 following subject areas, regardless of whether this instruction is described  
12 as, or incorporated into a description of, "family life education", "family  
13 health education", "health education", "family living", "health", "healthful  
14 living curriculum", or "self-esteem":

- 15 a. Mental and emotional ~~health~~;health.  
16 b. Drug and alcohol abuse ~~prevention~~;prevention.  
17 c. ~~Nutrition~~;Nutrition.  
18 d. Dental ~~health~~;health.  
19 e. Environmental ~~health~~;health.  
20 f. Family ~~living~~;living.  
21 g. Consumer ~~health~~;health.  
22 h. Disease ~~control~~;control.  
23 i. Growth and ~~development~~;development.  
24 j. First aid and emergency care, including the teaching of  
25 cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by  
26 using hands-on training with mannequins so that students ~~become~~  
27 ~~proficient in order to pass~~ a test approved by the American Heart  
28 Association, or American Red ~~Cross~~;Cross. Schools shall use for this  
29 purpose an instructional program developed by the American Heart  
30 Association, the American Red Cross, or other nationally recognized  
31 programs, that is based on the most current national evidence-based  
32 emergency cardiovascular care guidelines for CPR. Schools shall  
33 maintain documentation in an electronic database that students have



1 successfully completed CPR instruction to meet Healthful Living  
2 Essential Standards. Successful completion of instruction in CPR  
3 shall be a requirement for high school graduation by the 2014-2015  
4 school year.

5 k. Preventing sexually transmitted diseases, including HIV/AIDS, and  
6 other communicable ~~diseases;~~diseases.

7 l. Reproductive health and safety ~~education;~~ andeducation.

8 m. Bicycle safety.

9 As used in this subsection, "HIV/AIDS" means Human  
10 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome."

11 **SECTION 2.** The State Board of Education shall work in cooperation with the  
12 American Heart Association, the American Red Cross, and other nationally recognized  
13 programs to develop a strategic plan to phase in successful completion of cardiopulmonary  
14 resuscitation instruction as a requirement for high school graduation by the 2014-2015 school  
15 year. The plan shall include costs of, and details regarding, procedures for:

16 (1) Obtaining and maintaining documentation regarding students who  
17 successfully complete cardiopulmonary resuscitation instruction in the  
18 eighth grade in accordance with the Healthful Living Essential Standards  
19 previously adopted by the State Board of Education. Documentation efforts  
20 shall be initiated during the 2012-2013 school year.

21 (2) Identifying students not successfully completing cardiopulmonary  
22 resuscitation instruction through Healthful Living Essential Standards and  
23 ensuring that those students successfully complete cardiopulmonary  
24 resuscitation instruction through other appropriate formats pursuant to  
25 G.S. 115C-81(e1)(1j). Identification of students needing cardiopulmonary  
26 resuscitation instruction and offering this instruction to those students shall  
27 begin during the 2013-2014 school year.

28 (3) Requiring successful completion of cardiopulmonary resuscitation  
29 instruction as a requirement for high school graduation by the 2013-2014  
30 school year.

31 The plan shall be implemented at the beginning of the 2014-2015 school year.

32 The SBE shall report on this plan to the Joint Legislative Education Oversight  
33 Committee by December 15, 2013. The SBE shall report on plan implementation to the Joint  
34 Legislative Education Oversight Committee by October 15, 2015.

35 **SECTION 3.** This act is effective when it becomes law and applies beginning with  
36 the 2012-2013 school year.





# HOUSE BILL 837: Completion of CPR by Students Required

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 27, 2012
<b>Introduced by:</b>	Reps. Carney, Justice	<b>Prepared by:</b>	Patsy Pierce
<b>Analysis of:</b>	PCS to Second Edition H837-CSTL-35		Legislative Analyst

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**SUMMARY:** *House Bill 837 would require successful completion of CPR instruction for high school graduation by the 2013-2014 school year. The State Board of Education (SBE) would be directed to work with the American Heart Association, Red Cross, and other national groups to develop a plan with necessary components to ensure that the graduation requirement is in place for all students by that time. The SBE must report on the plan to the Joint Legislative Education Oversight Committee by December 15, 2012 and on plan implementation by October 15, 2014.*

*The Proposed Committee Substitute updates implementation and reporting dates by one year and specifies that documentation will be obtained on students who take CPR in the eighth grade according to the SBE's Healthful Living Standards.*

**CURRENT LAW:** G.S. 115C-81(e1)(1j) requires CPR and Heimlich maneuver instruction in the School Health and Education Program of the State's Basic Education Program for traditional public schools.

**BILL ANALYSIS:** House Bill 837 would amend G.S. 115C-81(e1)(1j) to require schools to maintain documentation that students have successfully completed CPR training and would make successful completion of CPR training a high school graduation requirement by the 2014-2015 school year. The bill would direct the State Board of Education (SBE) to work with the American Heart Association, the American Red Cross, and other nationally recognized programs, to develop a plan to phase in the graduation requirement. The plan would include costs, details on documentation procedures, and options for ensuring that students not completing CPR through the Standard Course of Study can successfully complete the training through other formats. The plan must be implemented at the beginning of the 2014-2015 school year. The SBE must report on the plan to the Joint Legislative Education Oversight Committee by December 15, 2013 and on the implementation of the plan by October 15, 2015.

**EFFECTIVE DATE:** This act would become effective when it becomes law and would apply beginning with the 2012-13 school year.

**BACKGROUND:** The current N.C. Standard Course of Study, Healthful Living Essential Standards, requires 8<sup>th</sup> grade students to learn CPR. In February 2010, the American Heart Association completed an internet-based search of existing documents in each state and found that 7 states include CPR training for school-aged students in statute and another 30 states require CPR training in their standards, rules, and/or curricula for school-aged students. Iowa is the only state that currently requires CPR instruction as a graduation requirement.

H837-SMTL-68(CSTL-35) v1

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 914  
PROPOSED SENATE COMMITTEE SUBSTITUTE H914-CSRN-45 [v.2]

6/26/2012 8:14:23 PM

Short Title: AEDs in State Buildings.

(Public)

Sponsors:

Referred to:

May 5, 2011

A BILL TO BE ENTITLED

AN ACT TO PLACE AUTOMATIC EXTERNAL DEFIBRILLATORS (AEDS) IN ALL BUILDINGS AND FACILITIES THAT HOUSE STATE SERVICES, AGENCIES, AND INSTITUTIONS AND PROVIDE TRAINING FOR STATE EMPLOYEES IN THOSE FACILITIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** The General Assembly finds the following:

- (1) According to the American Heart Association, an individual goes into cardiac arrest in the United States every two minutes. In North Carolina, twenty-three percent (23%) of all deaths are attributed to heart disease, 11,765 of which are as a result of cardiac arrest. Ventricular Fibrillation (VF) is a common rhythm for which cardiopulmonary resuscitation (CPR) and defibrillation are the only effective treatments. For victims with VF, survival rates are highest when immediate bystander CPR is provided and defibrillation occurs within three to five minutes of collapse. With every minute that passes, a victim's survival rate is reduced by seven percent (7%) to ten percent (10%) if no intervention measures are taken. An estimated ninety-five percent (95%) of cardiac arrest victims die before reaching the hospital. If intervention measures are taken, survival rates are much higher; when CPR and defibrillation are immediately performed, survival rates can double.
- (2) Eighty percent (80%) of all cardiac arrests occur in private or residential settings, and almost sixty percent (60%) are witnessed. Communities that have established and implemented public access defibrillation programs have achieved average survival rates for out-of-hospital cardiac arrest as high as forty-one percent (41%) to seventy-four percent (74%).
- (3) Wider use of defibrillators could save as many as 40,000 lives nationally each year. Successful public access defibrillation programs ensure that cardiac arrest victims will have an immediate recognition of cardiac arrest and activation of 911 followed by early CPR with an emphasis on compressions, rapid Automatic External Defibrillator (AED) use, effective advanced care, and coordinated care afterward.

**SECTION 2.(a)** There is created a Chain of Survival Public-Private Task Force (Task Force) with members appointed as follows:



\* H 9 1 4 - C S R N - 4 5 - V - 2 \*

- 1 (1) Two Senators appointed by the President Pro Tempore of the Senate.
- 2 (2) Two members of the House of Representatives appointed by the Speaker of
- 3 the House of Representatives.
- 4 (3) One representative of the Office of Emergency Medical Services designated
- 5 by the Secretary of Health and Human Services.
- 6 (4) One representative of a local Emergency Medical Service designated by the
- 7 Secretary of Health and Human Services.
- 8 (5) One representative of the Heart Disease and Stroke Prevention Branch
- 9 designated by the Secretary of Health and Human Services.
- 10 (6) The Secretary of Administration or the Secretary's designee, ex officio.
- 11 (7) A representative of the American Heart Association.
- 12 (8) A representative of The American Red Cross.
- 13 (9) A representative of the North Carolina Hospital Association.
- 14 (10) A representative of the American College of Cardiology.
- 15 (11) A representative of the College of Emergency Physicians.
- 16 (12) A cardiac arrest survivor designated by the Secretary of Health and Human
- 17 Services.

18 **SECTION 2.(b)** The Task Force shall identify, pursue, and achieve funding for the  
 19 placement of AEDs and training of State employees to recognize and initiate life-saving actions  
 20 to those experiencing an acute event (sudden cardiac arrest, heart attack, and strokes) in  
 21 buildings and facilities that house State agencies, services, and institutions.

22 **SECTION 2.(c)** Members of the Task Force serve at the pleasure of the appointing  
 23 authority. This section expires June 30, 2014

24 **SECTION 3.(a)** Subject to the receipt of public-private funds for this purpose, the  
 25 Department of Administration shall, in consultation with OEMS, AHA, and a qualified  
 26 vendor/provider of AEDs and training services, develop and adopt policies and procedures  
 27 relative to the placement and use of automated external defibrillators in State-owned and  
 28 State-leased buildings. The Department of Administration shall also require that all State  
 29 buildings, facilities, and institutions shall develop a Medical Emergency Response Plan that  
 30 facilitates the following:

- 31 (1) Effective and efficient communication throughout the State-owned and
- 32 State-leased buildings.
- 33 (2) Coordinated and practiced response plans.
- 34 (3) Training and equipment for first aid and CPR.
- 35 (4) Implementation of a lay rescuer AED program.

36 **SECTION 3.(b)** In addition, for each State building, facility, or institution there  
 37 shall be developed and periodically updated a maintenance plan that takes the following into  
 38 account:

- 39 (1) Implementation of an appropriate training course in the use of AEDs,
- 40 including the role of CPR.
- 41 (2) Proper maintenance and testing of the devices.
- 42 (3) Ensuring coordination with appropriate licensed professionals in the
- 43 oversight of training of the devices.
- 44 (4) Ensuring coordination with local emergency medical systems regarding the
- 45 placement of AEDs in State buildings, facilities, or institutions where such
- 46 devices are to be used.

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



## HOUSE BILL 914: AEDs in State Buildings

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 27, 2012
<b>Introduced by:</b>	Reps. Carney, E. Warren, Hackney, Brubaker	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition H914-CSRN-45		Committee Counsel

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**SUMMARY:** *House Bill 914 would create the Chain of Survival Public-Private Task Force to identify, pursue and achieve public funding for the placement of Automatic External Defibrillators (AED's) in State buildings and the training of State employees to recognize and take life-saving action when someone is having a heart attack or stroke. The bill also would direct the Department of Administration, subject to the receipt of public-private funds, to develop and adopt policies and procedures on the use and placement of AED's, to develop a Medical Emergency Response Plan, and a maintenance plan for maintaining and testing the AED's and implementing appropriate training in their use. The Proposed Committee Substitute makes the act effective when it becomes law (was July 1, 2011).*

### BILL ANALYSIS:

**Section 1** makes findings regarding the numbers of persons suffering cardiac arrest in the US and the increase in survival rates attributable to the use of AED's and CPR.

**Section 2** would create the Chain of Survival Public-Private Task Force. The Task Force is to be composed of 14 members including:

- Two Senators appointed by the President Pro Tempore of the Senate.
- Two members of the House of Representatives appointed by the Speaker of the House of Representatives.
- One representative of the Office of Emergency Medical Services designated by the Secretary of Health and Human Services.
- One representative of a local Emergency Medical Service designated by the Secretary of Health and Human Services.
- One representative of the Heart Disease and Stroke Prevention Branch designated by the Secretary of Health and Human Services.
- The Secretary of Administration or the Secretary's designee, ex officio.
- A representative of the American Heart Association.
- A representative of The American Red Cross.
- A representative of the North Carolina Hospital Association.
- A representative of the American College of Cardiology.
- A representative of the College of Emergency Physicians.
- A cardiac arrest survivor designated by the Secretary of Health and Human Services.

The Task Force shall identify, pursue and achieve public funding for placement of Automatic External Defibrillators (AED's) in State buildings and training State employees to recognize and take life-saving action when someone is having a heart attack or stroke. The Task Force shall terminate on June 30, 2014.

# House PCS 914

Page 2

**Section 3** would direct the Department of Administration, subject to the receipt of public-private funds, to develop and adopt policies and procedures, in consultation with OEMS, AHA, and a qualified vendor/provider of AED's and training services, on the use and placement of AED's. The Department shall also develop a Medical Emergency Response Plan that provides for effective and efficient communication throughout State buildings, coordinated and practiced response plans, training and equipment for first aid and CPR, and implementation of a lay rescuer AED program. Finally the Department shall develop and periodically update a maintenance plan for maintaining and testing the AED's and implementing appropriate training in their use.

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

*H914-SMRN-101(CSRN-45) v3*

*\*Barbara Riley, Counsel to the House Health and Human Services Committee, contributed substantially to the drafting of this summary.*



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 914

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

H914-ARN-31 [v.2]

Page 1 of 1

Comm. Sub. [YES]  
Amends Title [NO]  
H914-CSR-45

Date \_\_\_\_\_, 2012

Senator Breck

- 1
- 2
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- 6

moves to amend the bill on page 2, line 23, by deleting the phrase "June 30, 2014" and substituting the phrase "June 30, 2015".

SIGNED [Signature]  
Amendment Sponsor

SIGNED [Signature]  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* H 9 1 4 - A R N - 3 1 - V - 2 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

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HOUSE BILL 1085  
Committee Substitute Favorable 6/6/12  
Third Edition Engrossed 6/12/12

Short Title: State Health Plan/ Statutory Changes.-AB

(Public)

Sponsors:

Referred to:

May 24, 2012

A BILL TO BE ENTITLED

1 AN ACT TO, FOR THE STATE HEALTH PLAN FOR TEACHERS AND STATE  
2 EMPLOYEES, WHICH COVERS RETIREES WITHIN THE RETIREMENT SYSTEM,  
3 (1) AMEND THE DEFINITION OF "DEPENDENT CHILD" IN ORDER TO COMPLY  
4 WITH THE AFFORDABLE CARE ACT, (2) LIMIT ENROLLMENT WITHOUT A  
5 QUALIFYING EVENT TO THE ANNUAL ENROLLMENT PERIOD, (3) REPEAL THE  
6 OPTIONAL PROGRAM OF LONG-TERM CARE BENEFITS, AND (4) MAKE A  
7 CLARIFYING CHANGE RELATED TO COINSURANCE.  
8

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 135-48.1(9) reads as rewritten:

11 "(9) Dependent child. – Subject to the eligibility requirements of subsections (a)  
12 and (b) of G.S. 135-48.41, any of the following up to the first month  
13 following the dependent child's 26th birthday:

- 14 a. A natural or legally adopted child or children of the employee,  
15 whether or not the child is living with the employee.  
16 b. A foster child or children of the employee, whether or not the child is  
17 living with the ~~employee, as long as the employee is legally~~  
18 ~~responsible for the child's maintenance and support.~~employee.  
19 c. A child for which an employee is a court-appointed ~~guardian, as long~~  
20 ~~as the employee is legally responsible for the child's maintenance and~~  
21 ~~support.~~guardian.  
22 d. A stepchild of a member who is married to the stepchild's natural  
23 parent.  
24 e. Repealed by Session Laws 2011-96, s. 3(a), effective July 1, 2011."

25 SECTION 2.(a) G.S. 135-48.41(g) reads as rewritten:

26 "(g) An eligible surviving spouse and any eligible surviving dependent child of a  
27 deceased retiree, teacher, State employee, member of the General Assembly, former member of  
28 the General Assembly, or Disability Income Plan beneficiary shall be eligible for group  
29 benefits under this section without waiting periods for preexisting conditions provided  
30 coverage is elected within 90 days after the death of the former plan member. Coverage may be  
31 elected at a later time, during an annual enrollment period, but ~~will~~members 19 years of age  
32 and older may be subject to the 12-month waiting period for preexisting conditions and will be  
33 effective the first day of the month following receipt of the application."

34 SECTION 2.(b) G.S. 135-48.42 reads as rewritten:

35 "§ 135-48.42. Enrollment.



\* H 1 0 8 5 - V - 3 \*

1 (a) Except as otherwise required by applicable federal law, new employees must be  
2 given the opportunity to enroll or decline enrollment for themselves and their dependents  
3 within 30 days from the date of employment or from first becoming eligible on a partially  
4 contributory basis. Coverage may become effective on the first day of the month following date  
5 of entry on payroll or on the first day of the following month. New employees age 19 and older  
6 not enrolling themselves and their dependents age 19 and older within 30 days, or not adding  
7 dependents when first eligible as provided herein may enroll ~~on the first day of any~~  
8 ~~month during annual enrollment~~, but ~~will~~ may be subject to a 12-month waiting period for  
9 preexisting health conditions, except for employees who elect to change their coverage in  
10 accordance with rules established by the State Treasurer for optional or alternative plans  
11 available under the Plan. Children born to covered employees having coverage type (2) or (3),  
12 as outlined in G.S. 135-48.43(d) shall be automatically covered at the time of birth without any  
13 waiting period for preexisting health conditions. Children born to covered employees having  
14 coverage type (1) shall be automatically covered at birth without any waiting period for  
15 preexisting health conditions so long as the claims processor receives notification within 30  
16 days of the date of birth that the employee desires to change from coverage (1) to coverage type  
17 (2) or (3), provided that the employee pays any additional premium required by the coverage  
18 type selected retroactive to the first day of the month in which the child was born.

19 (b) Except as otherwise required by applicable federal law, newly acquired dependents  
20 (spouse/child) age 19 and older enrolled within 30 days of becoming an eligible dependent will  
21 not be subject to the 12-month waiting period for preexisting conditions. A dependent can  
22 become ~~qualified~~ first eligible due to marriage, adoption, legal guardianship, entering a foster  
23 child relationship, and at the beginning of each legislative session (applies only to enrolled  
24 legislators). Effective date for newly acquired dependents if application was made within the 30  
25 days can be the first day of the following month. Effective date for an adopted child can be date  
26 of adoption, or date of placement in the adoptive parents' home, or the first of the month  
27 following the date of adoption or placement. Firefighters, rescue squad workers, and members  
28 of the National Guard, and their eligible dependents, are subject to the same terms and  
29 conditions as are new employees and their dependents covered by this subdivision. Enrollments  
30 in these circumstances must occur within 30 days of eligibility to enroll.

31 (c) Eligible employees younger than age 19 and dependents younger than age 19 may  
32 be enrolled ~~at any time~~ during annual enrollment and shall not be subject to any waiting period  
33 for a preexisting condition.

34 (d) When an eligible or enrolled member applies to enroll the member's eligible  
35 dependent child or spouse, the member shall provide the documentation required by the Plan to  
36 verify the dependent's eligibility for coverage.

37 (e) Eligible employees may only change their elections, including adding or removing  
38 dependents, during the Plan year due to a qualifying event as defined under federal law."

39 SECTION 2.(c) G.S. 135-48.43 reads as rewritten:

40 "§ 135-48.43. Effective dates of coverage.

41 (a) Employees and Retired Employees. –

42 (1) Employees and retired employees covered under the Predecessor Plan will  
43 continue to be covered, subject to the terms hereof.

44 (2) New employees may apply for coverage to be effective on the first day of  
45 the month following employment, or on a like date the following month if  
46 the employee has enrolled.

47 (3) Employees age 19 or older not enrolling or adding dependents age 19 and  
48 older when first eligible in accordance with G.S. 135-48.42 may enroll later  
49 ~~on the first of any following month~~ during annual enrollment, but ~~will~~ may be  
50 subject to a 12-month waiting period for a preexisting health condition,  
51 except employees who elect to change their coverage in accordance with



rules adopted by the State Treasurer for optional alternative plans offered under the Plan.

(b) Waiting Periods and Preexisting Conditions. –

(1) New employees and dependents age 19 and older enrolling when first eligible are subject to no waiting period for preexisting conditions under the Plan.

(2) Employees age 19 or older not enrolling or not adding dependents age 19 and older when first eligible may enroll later ~~on the first of any following month, during annual enrollment,~~ but ~~will~~ enrollees age 19 or older may be subject to a twelve-month waiting period for preexisting conditions except as provided in subdivision (a)(3) of this section. The waiting period under this subdivision is subject to applicable federal law.

(c) Dependents of Employees and Retired Employees. –

(5) Employees not adding dependents age 19 and older when first eligible may enroll later ~~on the first of any following month, during annual enrollment,~~ but dependents ~~will~~ may be subject to a 12-month waiting period for preexisting health conditions except as provided in subdivision (a)(3) of this section.

...."

**SECTION 3.(a)** The title of Article 3B of Chapter 135 of the General Statutes reads as rewritten:

"Article 3B.

State Health Plan for Teachers and State ~~Employees; Long-term Care Benefits~~ Employees."

**SECTION 3.(b)** G.S. 135-48.5(c) is repealed.

**SECTION 3.(c)** Subdivisions (15) and (16) of G.S. 135-48.30 are repealed.

**SECTION 3.(d)** Part 6 of Article 3B of Chapter 135 of the General Statutes is repealed.

**SECTION 3.(e)** An employee, retired employee, or dependent enrolled under long-term care under Part 6 of Article 3B of Chapter 136 of the General Statutes at the time of that Part's repeal shall be entitled to a conversion to a nongroup plan of long-term care benefits. The Executive Administrator and Board of Trustees of the Plan shall determine how those conversion rights shall be administered.

**SECTION 3.(f)** Any unencumbered administrative fees collected by the Plan under Part 6 of Article 3B of Chapter 135 of the General Statutes are transferred to the Public Employee Health Benefit Fund created under G.S. 135-48.5(a).

**SECTION 4.(a)** G.S. 135-48.22(2) reads as rewritten:

"(2) Approve premium rates, co-pays, deductibles, and coinsurance percentages and maximums for the Plan, as provided in G.S. 135-48.30(a)(2)."

**SECTION 4.(b)** G.S. 135-48.30(2) reads as rewritten:

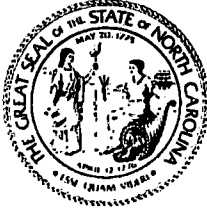
"(2) Set benefits, premium rates, co-pays, deductibles, and coinsurance percentages and maximums, subject to approval by the Board of Trustees. In setting premium rates, the State Treasurer may set a partially contributory rate of zero dollars, subject to approval by the Board of Trustees."

**SECTION 5.** G.S. 135-48.3 reads as rewritten:

"§ 135-48.3. Right to amend.

The General Assembly reserves the right to alter, amend, or repeal ~~Parts 2 and 3~~ of this Article."

1           **SECTION 6.** This act becomes effective July 1, 2012, except that Sections 3(a),  
2 3(b), 3(c), 3(d), and 3(f) become effective January 1, 2013.



# HOUSE BILL 1085: State Health Plan/ Statutory Changes.-AB

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 26, 2012
<b>Introduced by:</b>	Rep. Dollar	<b>Prepared by:</b>	Denise Adams
<b>Analysis of:</b>	Third Edition		Committee Staff

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**SUMMARY:** *House Bill 1085 modifies the State Health Plan by changing the definition of 'dependent child' to comply with the Patient Protection and Affordable Care Act (ACA); limiting the enrollment window for employees, retirees and/or their dependents who do not enroll during the first 30 days of eligibility, repealing the optional program of long-term care benefits; and making a change related to setting the rates for the Plan.*

## **SECTION 1**

- **Current law:** Under the ACA, dependent children are eligible for coverage until the month after their 26th birthday unless the dependent child is eligible for other employer group coverage as an employee or spouse. Marital status, student status, dependent status, and place of residence do not preclude the eligibility of dependent children for coverage. The definition of 'dependent child' includes natural and adopted children, stepchildren, foster children, and children for which an employee is a court-appointed guardian. Under the State Health Plan, an employee may only enroll a foster child or a child for whom the employee is a court-appointed guardian if the employee is legally responsible for the child's maintenance and support.
- **Bill analysis:** House Bill 1085 amends the state's statutory definition of 'dependent child' to comply with PPACA by removing the condition that the employee be legally responsible for the child's maintenance and support.

## **SECTION 2**

- **Current law:** Employees and retirees may elect coverage for themselves and/or dependents when 'first eligible,' during annual enrollment, or at any later time. 'First eligible' includes any newly eligible employees and retirees, as well as employees or dependents eligible for coverage due to a qualifying event, such as marriage or the birth of a child. Currently, employees and dependents less than age 19 are no longer subject to preexisting condition limitations. Effective January 1, 2014, the ACA will expand the prohibition on preexisting condition limitations and no employee, retiree, or dependent regardless of age will be subject to this limitation.
- **Bill analysis:** The changes in Section 2 of the bill would restrict the window of time when an employee or retiree who did not enroll within the first 30 days of eligibility could later enroll. HB1085 would only allow eligible employees and retirees to enroll themselves and/or their dependents when "first eligible" or during annual enrollment periods. Electing coverage during the annual enrollment period rather than when "first eligible" currently results in a 12 month waiting period for preexisting conditions for members 19 years of age or older.

## **SECTION 3**

- **Current law:** The State Health Plan must currently offer an optional long-term care benefit.
- **Bill analysis:** Section 3 of HB135 removes the requirement that the State Health Plan offer an optional long term care plan.

# House Bill 1085

Page 2

## SECTION 4

- Current law. The Treasurer is authorized to set the maximum amounts for various rates charged under the Plan
- Bill analysis: HB1085 would allow the Treasurer to also set the percentages.

**SECTION 5** makes a technical correction to fix an engrossing error from 2011.

**BACKGROUND:** The bill is comprised of recommendations from the State Treasurer's Office.

**EFFECTIVE DATE:** House Bill 1085 becomes effective July 1, 2012, except that Sections 3(a), 3(b), 3(c), 3(d), and 3(f) become effective January 1, 2013.

*Kory Goldsmith with the Research Division substantially contributed to this summary.*

H1085-SMTB-45(e3) v3

Timing of Enrollment	Current Law	HB 1085 before Year 2014	HB 1085 in Year 2014 and Later
<b>Annual Enrollment</b>			
Permitted?	Yes	Yes	Yes
Taxes <sup>1</sup>	Pre-tax	Pre-tax	Pre-tax
Pre-existing Condition Wait <sup>2</sup>	Yes	Yes	No
<b>Qualifying Event <sup>3</sup></b>			
Permitted?	Yes	Yes	Yes
Taxes	Pre-tax	Pre-tax	Pre-tax
Pre-existing Condition Wait	No	No	No
<b>Any Other Time</b>			
Permitted?	Yes	No	No
Taxes	Post-tax		
Pre-existing Condition Wait	Yes		

1. Refers to whether employee premiums are paid on a pre-tax or post-tax basis.
2. The pre-existing condition waiting period lasts for 12 months, during which time treatments are not covered for a condition diagnosed and treated within six months prior to the effective date of coverage. It only applies to employees and dependents age 19 and older. The 12 month period is reduced by the number of days of prior health coverage in another plan.
3. Qualifying events are defined in federal law and include, among other things, initial opportunity to enroll, marriage, divorce, birth, adoption, acquiring foster or step-child, death of dependent, reemployment after a break, returning from military service, dependent losing coverage in another plan, and change in dependent's coverage options in another plan.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 457  
Committee Substitute Favorable 6/8/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H457-CSR-46 [v.1]

6/26/2012 8:24:52 PM

Short Title: Municipal Electric Utilities/Rate Hearings.

(Public)

Sponsors:

Referred to:

March 24, 2011

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT THE EASTERN JOINT MUNICIPAL POWER AGENCY SHALL HOLD A PUBLIC MEETING PRIOR TO CHANGING RATES AND THE MUNICIPAL ELECTRIC UTILITIES THAT ARE MEMBERS OF THE EASTERN POWER AGENCY SHALL HOLD A PUBLIC HEARING BEFORE CHANGING ELECTRIC RATES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159B-17 reads as rewritten:

"§ 159B-17. Revenues.

(a) A municipality is hereby authorized to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its electric system or its interest in any joint project. A municipality must hold a public hearing prior to taking action to change the rates, fees, or charges authorized under this section. The municipality must provide notice of the hearing to take action to change the rates, fees, or charges, to be published at least once a week for two successive weeks in a newspaper having general circulation in the municipality. The notice must clearly state the public hearing will be held for the purpose of taking action to change the rates, fees, or charges for power and energy and must clearly state the amount of the proposed change. At the hearing, any resident of the municipality may appear and be heard on the proposed change in the rates, fees, or charges. For so long as any bonds of a municipality are outstanding and unpaid, the rents, rates, fees and charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and expenses in connection with the proper operation and maintenance of its electric system, and its interest in any joint project, and all necessary repairs, replacements or renewals thereof, to pay when due the principal of, premium, if any, and interest on all bonds and other evidences of indebtedness payable from said revenues, to create and maintain reserves as may be required by any resolution or trust agreement authorizing and securing bonds, to pay when due the principal of, premium, if any, and interest on all general obligation bonds heretofore or hereafter issued to finance additions, improvements and betterments to its electric system, and to pay any and all amounts which the municipality may be obligated to pay from said revenues by law or contract.

(b) A joint agency is hereby authorized to fix, charge, and collect rents, rates, fees and charges for electric power and energy and other services, facilities and commodities sold, furnished or supplied through the facilities of its projects or otherwise as authorized by this



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1 Chapter. A joint agency may take action only to change the rates, fees, or charges authorized in  
2 this section in a public meeting. The joint agency must provide notice of a meeting to take  
3 action to change the rates, fees, or charges to each of the municipalities that is a member of the  
4 joint agency prior to a change in the rates, fees, or charges for power and energy and other  
5 services authorized in this section. The joint agency must provide notices of the meeting to be  
6 published at least once a week for two successive weeks in newspapers having general  
7 circulation in each municipality that is a member of the joint agency. The notice must clearly  
8 state the meeting will be held for the purpose of taking action to change the rates, fees, or  
9 charges for power and energy and must clearly state the amount of the proposed change. For so  
10 long as any bonds of a joint agency are outstanding and unpaid, the rents, rates, fees and  
11 charges shall be so fixed as to provide revenues sufficient to pay all costs of and charges and  
12 expenses in connection with the proper operation and maintenance of its projects, and all  
13 necessary repairs, replacements or renewals thereof, to pay when due the principal of,  
14 premium, if any, and interest on all bonds and other evidences of indebtedness payable from  
15 said revenues, to create and maintain reserves as may be required by any resolution or trust  
16 agreement authorizing and securing bonds, and to pay any and all amounts which the joint  
17 agency may be obligated to pay from said revenues by law or contract.

18 (c) Any pledge of revenues, securities or other moneys made by a municipality, joint  
19 agency or joint municipal assistance agency pursuant to this Chapter shall be valid and binding  
20 from the date the pledge is made. The revenues, securities, and other moneys so pledged and  
21 then held or thereafter received by the municipality, joint agency or joint municipal assistance  
22 agency or any fiduciary shall immediately be subject to the lien of the pledge without any  
23 physical delivery thereof or further act, and the lien of the pledge shall be valid and binding as  
24 against all parties having claims of any kind in tort, contract, or otherwise against the  
25 municipality, joint agency or joint municipal assistance agency without regard to whether such  
26 parties have notice thereof. The resolution or trust agreement or any financing statement,  
27 continuation statement or other instrument by which a pledge of revenues, securities or other  
28 moneys is created need not be filed or recorded in any manner."

29 **SECTION 2.** This act becomes effective October 1, 2012, and applies to all rates,  
30 fees, or charges for electric service provided by the North Carolina Eastern Municipal Power  
31 Agency (NCEMPA) or a member city or town of the NCEMPA on or after that date.



# HOUSE BILL 457: Municipal Electric Utilities/Rate Hearings

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 27, 2012
<b>Introduced by:</b>	Reps. Farmer-Butterfield, Tolson, Collins, Bryant	<b>Prepared by:</b>	Brad Krehely Committee Counsel
<b>Analysis of:</b>	PCS to Second Edition H457-CSRN-46		

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**SUMMARY:** *House Bill 457 would require municipalities that are members of the Eastern Municipal Power Agency to hold a public hearing before changing the rates for electric service. It would also require the Eastern Municipal Power Agency to hold a public meeting before changing its rates for energy sold to the members of that Power Agency. The PCS corrects the effective date.*

**CURRENT LAW:** Cities are authorized to operate public enterprises, including electric power generation, transmission, and distribution systems. The cities have the authority to set rates for the electric system. Because the cities are not considered public utilities under the statutes, the rates set by municipalities for the electric systems are not subject to review by the Utilities Commission.

Cities are also authorized to establish and operate electric power projects by formation of a joint agency for ownership of a project. These joint agencies are authorized to issue revenue bonds to finance the costs of a project. Two joint agencies have been formed under this authorization, North Carolina Municipal Power Agency No. 1 (NCMPA1) and North Carolina Eastern Power Agency (NCEMPA) were formed. NCMPA1 has 19 members; NCEMPA has 32 members; 19 other cities offer electric service but do not belong to either of the Municipal Power Agencies.

The NCEMPA owns interest in five generating units built and operated by Progress Energy. These facilities include three nuclear units, 2 units at the Brunswick Plant in Brunswick County, and 1 unit at Shearon Harris Plant in Wake County. The NCEMPA also owns an interest in two coal-fired plants in Person County. The debt for the NCEMPA as of January 2, 2011 is \$2,254,510,000.

G.S. 143-318.12 requires public bodies to provide notice of official meetings. The body may establish a schedule of regular meetings that must be kept on file. If the body holds a meeting at a time other than the officially scheduled time, notice of the meeting must be provided.

**BILL ANALYSIS: Section 1:** Would require municipalities that are members of the Eastern Municipal Power Agency to hold a public hearing prior to changing the rates for electric service. The municipality would be required to publish a notice once a week for two successive weeks in a newspaper having general circulation in the municipality. The notice must clearly state the purpose of the meeting and the amount of the proposed change in the rates. Any resident of the municipality may speak at the hearing.

**Section 2:** Would also require the Eastern Municipal Power Agency to hold a public meeting prior to changing its rates for energy sold to the members of that Power Agency. The Power Agency would be required to provide notice to the municipalities that are members of the Agency, and publish a notice once a week for two successive weeks in each newspaper having general circulation in each of the member municipalities. The notice must clearly state the purpose of the meeting and the amount of the proposed change in the rates.

**EFFECTIVE DATE:** This act becomes effective October 1, 2012.

H457-SMRN-102(CSRN-46) v1

\*Heather Fennell, Counsel to House Public Utilities, contributed substantially to the drafting of this summary.

Research Division

O. Walker Reagan, Director

(919) 733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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3

HOUSE BILL 572  
Committee Substitute Favorable 5/16/11  
Third Edition Engrossed 5/19/11

Short Title: Accountability for Publicly Funded Nonprofits.

(Public)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE GREATER ACCOUNTABILITY FOR NONPROFIT ENTITIES  
THAT RECEIVE PUBLIC FUNDING.

The General Assembly of North Carolina enacts:

SECTION 1. Part 2 of Article 16 of Chapter 55A of the General Statutes is amended by adding a new section to read:

**"§ 55A-16-24. Financial statements for the public.**

(a) Notwithstanding any provisions in the articles of incorporation or bylaws, a corporation that receives any public funding in the form of grants or loans, or receives any in-kind donation, from a local government, the State, or the federal government shall provide its latest annual financial statements upon written demand from any member of the public. The statements shall be substantively similar to those required under G.S. 55A-16-20 but shall contain additional details about the amount of public funds received and how those funds were used. Additionally, a corporation that receives public funding shall provide, upon written demand from any member of the public, a copy of its most recently completed and filed Internal Revenue Service Form 990, except of any information not required for public disclosure pursuant to 26 U.S.C. § 6104(d)(3). A corporation may comply with the provisions of this section by maintaining on its public Web site a financial report as described in this section and a copy of its most recent Internal Revenue Service Form 990 or by having such materials posted, as part of a database of similar documents of other tax-exempt organization, on a Web site established and maintained by another entity, provided that the entity does not charge a fee to access the information and provided that the corporation provides a link on its public Web site to the Web site maintained by the other entity.

(b) Exceptions. – The following corporations already required to report information shall not be subject to subsection (a) of this section, but shall provide information on their public Web site to whom the corporation reports its information and how to access that information:

- (1) A corporation required to report to the North Carolina Medical Care Commission of the Department of Health and Human Services.
- (2) A corporation required to report to the Local Government Commission of the Department of State Treasurer.
- (3) A private college that meets the definition of "institution" under G.S. 116-22 and is required to report to the State under G.S. 143C-6-23."

SECTION 2. This act becomes effective October 1, 2011, and applies to nonprofit corporations receiving public funding in the form of grants or loans on or after that date.



\* H 5 7 2 - V - 3 \*



# HOUSE BILL 572: Accountability for Publicly Funded Nonprofits

2011-2012 General Assembly

**Committee:** Rules and Operations of the Senate  
**Introduced by:** Reps. Justice, Sager, Stevens, West  
**Analysis of:** Third Edition

**Date:** June 26, 2012  
**Prepared by:** Barbara Riley and  
Giles S. Perry  
Committee Counsel

**SUMMARY:** *House Bill 572 adds a new section to the Nonprofit Corporation Act that would require a corporation that receives any public funding from the State or local government or the federal government, to provide its latest annual financial statements and a copy of its most recently filed IRS Form 990 upon written demand of a member of the public. A corporation may comply by maintaining a financial report and its IRS Form 990 on its public web site or by having the materials posted as a part of a database of similar documents of other tax exempt organizations on a website established and maintained by another entity provided that the entity does not charge a fee to access the information.*

**CURRENT LAW:** There is no current law requiring corporations receiving public funding to provide the public with information regarding the amount or use of public funds received.

**BILL ANALYSIS:** House Bill 572 adds a new section G.S. 55A-16-24 to the Nonprofit Corporation Act. The new section would require a corporation that receives any public funding in the form of grants or loans or in-kind donations from the State or local government or the federal government, to provide its latest annual financial statements to any member of the public who requests them in writing. The financial statements are to include the amount of public funding received and the use of those funds. A copy of its most recently filed IRS Form 990 shall also be provided upon request. A corporation may comply by maintaining a copy of its financial reports and its IRS Form 990 on its public web site or by having the materials posted as a part of a database of similar documents of other tax exempt organizations on a website established and maintained by another entity provided that the entity does not charge a fee to access the information. Specified corporations already required to report information are exempted.

**EFFECTIVE DATE:** The act becomes effective October 1, 2011 and applies to nonprofit corporations receiving public funding in the form of grants or loans on or after that date.

H572-SMRW-245(e3) v2



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 572

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

H572-ARF-50 [v.1]

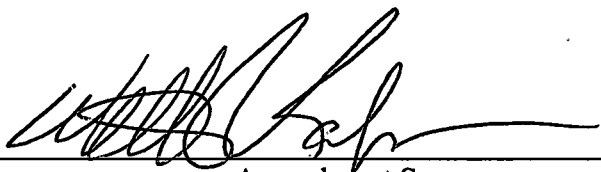
Page 1 of 1

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

Date \_\_\_\_\_, 2012

Senator \_\_\_\_\_

1 moves to amend the bill on page 1, line 34, by deleting "October 1, 2011," and substituting  
2 "October 1, 2012,".  
3  
4

SIGNED   
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* H 5 7 2 - A R F - 5 0 - V - 1 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

3

HOUSE BILL 1105  
Committee Substitute Favorable 6/19/12  
Third Edition Engrossed 6/21/12

Short Title: Modify Taxation of HOA Property.

(Public)

Sponsors:

Referred to:

May 24, 2012

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE COLLECTION OF PROPERTY TAXES THAT ARE DUE ON  
PROPERTY OWNED BY CERTAIN NONPROFIT HOMEOWNERS ASSOCIATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-277.8 reads as rewritten:

"§ 105-277.8. Taxation of property of nonprofit homeowners' association.

(a) ~~The~~ Except as provided in subsection (a1) of this section, the value of real and personal property owned by a nonprofit homeowners' association shall be included in the appraisals of property owned by members of the association and shall not be assessed against the association ~~if~~ if each of the following requirements is met:

- (1) All property owned by the association is held for the use, benefit, and enjoyment of all members of the association ~~equally~~; equally.
- (2) Each member of the association has an irrevocable right to use and enjoy, on an equal basis, all property owned by the association, subject to any restrictions imposed by the instruments conveying the right or the rules, regulations, or bylaws of the ~~association~~; and association.
- (3) Each irrevocable right to use and enjoy all property owned by the association is appurtenant to taxable real property owned by a member of the association.

The assessor may allocate the value of the association's property among the property of the association's members on any fair and reasonable basis.

(a1) The value of extraterritorial common property shall be subject to taxation only in the jurisdiction in which it is entirely contained and only in the amount of the local tax of the jurisdiction in which it is entirely contained. The value of any property taxed pursuant to this subsection, as determined by the latest schedule of values, shall not be included in the appraisals of property owned by members of the association that are referenced in subsection (a) of this section or otherwise subject to taxation. The assessor for the jurisdiction that imposes a tax pursuant to this subsection shall provide notice of the property, the value, and any other information to the assessor of any other jurisdiction so that the real properties owned by the members of the association are not subject to taxation for that value. The governing board of a nonprofit homeowners' association with property subject to taxation under this subsection shall provide annually to each member of the association the amount of tax due on the property, the value of the property, and, if applicable, the means by which the association will recover the tax due on the property from the members.



1 (b) As used in this section, "nonprofit homeowners' association" means a homeowners'  
2 association as defined in § 528(c) of the Internal Revenue Code. Code, and "extraterritorial  
3 common property" means real property that is (i) owned by a nonprofit homeowners  
4 association that meets the requirements of subdivisions (1) through (3) of subsection (a) of this  
5 section and (ii) entirely contained within a taxing jurisdiction that is different from that of the  
6 taxable real property owned by members of the association and providing the appurtenant  
7 rights to use and enjoy the association property."

8 **SECTION 2.** G.S. 47C-1-105 is amended by adding a new subsection to read:

9 "(e) Except as provided in subsection (c) of this section, extraterritorial common  
10 property taxed pursuant to G.S. 105-277.8 shall be assessed, pro rata, among the unit owners  
11 based on the number of the units in the association."

12 **SECTION 3.** Article 3 of Chapter 47F of the General Statutes is amended by  
13 adding a new section to read:

14 "**§ 47F-1-105. Taxation.**

15 Extraterritorial common property taxed pursuant to G.S. 105-277.8 shall be assessed, pro  
16 rata, among the lot owners based on the number of lots in the association."

17 **SECTION 4.** Section 1 of this act is effective for taxes imposed for taxable years  
18 beginning on or after July 1, 2012. Sections 2 and 3 of this act become effective July 1, 2012,  
19 and apply to extraterritorial common property acquired on or after that date. The remainder of  
20 this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 494  
Committee Substitute Favorable 5/25/11  
Committee Substitute #2 Favorable 6/8/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H494-PCS30669-SA-89

Short Title: Continuous Alcohol Monitoring Law Changes.

(Public)

Sponsors:

Referred to:

March 29, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW THE USE OF CONTINUOUS ALCOHOL MONITORING SYSTEMS  
3 AS A CONDITION OF PRETRIAL RELEASE, AS A CONDITION OF PROBATION,  
4 TO MITIGATE PUNISHMENTS FOR IMPAIRED DRIVING OFFENSES, AND TO  
5 ENSURE COMPLIANCE WITH CHILD CUSTODY AND VISITATION ORDERS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1.(a) G.S. 15A-534(a) reads as rewritten:

8 "(a) In determining conditions of pretrial release a judicial official must impose at least  
9 one of the following conditions:

- 10 (1) Release the defendant on his written promise to appear.  
11 (2) Release the defendant upon his execution of an unsecured appearance bond  
12 in an amount specified by the judicial official.  
13 (3) Place the defendant in the custody of a designated person or organization  
14 agreeing to supervise him.  
15 (4) Require the execution of an appearance bond in a specified amount secured  
16 by a cash deposit of the full amount of the bond, by a mortgage pursuant to  
17 G.S. 58-74-5, or by at least one solvent surety.  
18 (5) House arrest with electronic monitoring.

19 If condition (5) is imposed, the defendant must execute a secured appearance bond under  
20 subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may  
21 elect to execute an appearance bond under subdivision (4). If the defendant is required to  
22 provide fingerprints pursuant to G.S. 15A-502(a1) or (a2), or a DNA sample pursuant to  
23 G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been  
24 taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial  
25 official shall make the collection of the fingerprints or DNA sample a condition of pretrial  
26 release. The judicial official may also place restrictions on the travel, associations, conduct, or  
27 place of abode of the defendant as conditions of pretrial release. The judicial official may  
28 include as a condition of pretrial release that the defendant abstain from alcohol consumption,  
29 as verified by the use of a continuous alcohol monitoring system, of a type approved by the  
30 Division of Adult Correction of the Department of Public Safety, and that any violation of this  
31 condition be reported by the monitoring provider to the district attorney."

32 SECTION 1.(b) G.S. 15A-534(i) is repealed.



\* H 4 9 4 - P C S 3 0 6 6 9 - S A - 8 9 \*

**SECTION 2.** G.S. 15A-534.1(a)(2) reads as rewritten:

- "(2) A judge may impose the following conditions on pretrial release:
- a. That the defendant stay away from the home, school, business or place of employment of the alleged ~~victim~~; victim.
  - b. That the defendant refrain from assaulting, beating, molesting, or wounding the alleged ~~victim~~; victim.
  - c. That the defendant refrain from removing, damaging or injuring specifically identified ~~property~~; property.
  - d. That the defendant may visit his or her child or children at times and places provided by the terms of any existing order entered by a judge.
  - e. That the defendant abstain from alcohol consumption, as verified by the use of a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, and that any violation of this condition be reported by the monitoring provider to the district attorney.

The conditions set forth above may be imposed in addition to requiring that the defendant execute a secured appearance bond."

**SECTION 3.** G.S. 15A-1343(a1) reads as rewritten:

"(a1) Community and Intermediate Probation Conditions. — In addition to any conditions a court may be authorized to impose pursuant to G.S. 15A-1343(b1), the court may include any one or more of the following conditions as part of a community or intermediate punishment:

- (1) House arrest with electronic monitoring.
- (2) Perform community service.
- (3) Submission to a period or periods of confinement in a local confinement facility for a total of no more than six days per month during any three separate months during the period of probation. The six days per month confinement provided for in this subdivision may only be imposed as two-day or three-day consecutive periods. When a defendant is on probation for multiple judgments, confinement periods imposed under this subdivision shall run concurrently and may total no more than six days per month.
- (4) Substance abuse assessment, monitoring, or treatment.
- (4a) Abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.
- (5) Participation in an educational or vocational skills development program, including an evidence-based program.
- (6) Submission to satellite-based monitoring, pursuant to Part 5 of Article 27A of Chapter 14 of the General Statutes, if the defendant is described by G.S. 14-208.40(a)(2)."

**SECTION 4.** 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.

- 1 (3a) Not to abscond, by willfully avoiding supervision or by willfully making the  
2 defendant's whereabouts unknown to the supervising probation officer.
- 3 (4) Satisfy child support and other family obligations as required by the court. If  
4 the court requires the payment of child support, the amount of the payments  
5 shall be determined as provided in G.S. 50-13.4(c).
- 6 (5) Possess no firearm, explosive device or other deadly weapon listed in  
7 G.S. 14-269 without the written permission of the court.
- 8 (6) Pay a supervision fee as specified in subsection (c1).
- 9 (7) Remain gainfully and suitably employed or faithfully pursue a course of  
10 study or of vocational training that will equip him for suitable employment.  
11 A defendant pursuing a course of study or of vocational training shall abide  
12 by all of the rules of the institution providing the education or training, and  
13 the probation officer shall forward a copy of the probation judgment to that  
14 institution and request to be notified of any violations of institutional rules  
15 by the defendant.
- 16 (8) Notify the probation officer if he fails to obtain or retain satisfactory  
17 employment.
- 18 (9) Pay the costs of court, any fine ordered by the court, and make restitution or  
19 reparation as provided in subsection (d).
- 20 (10) Pay the State of North Carolina for the costs of appointed counsel, public  
21 defender, or appellate defender to represent him in the case(s) for which he  
22 was placed on probation.
- 23 (11) Repealed by Session Laws 2011-62, s. 1, as amended by Session Laws  
24 2011-412, s. 2.2, effective December 1, 2011, and applicable to offenses  
25 committed on or after December 1, 2011.
- 26 (12) Attend and complete an abuser treatment program if (i) the court finds the  
27 defendant is responsible for acts of domestic violence and (ii) there is a  
28 program, approved by the Domestic Violence Commission, reasonably  
29 available to the defendant, unless the court finds that such would not be in  
30 the best interests of justice.
- 31 (13) Submit at reasonable times to warrantless searches by a probation officer of  
32 the probationer's person and of the probationer's vehicle and premises while  
33 the probationer is present, for purposes directly related to the probation  
34 supervision, but the probationer may not be required to submit to any other  
35 search that would otherwise be unlawful.
- 36 (14) Submit to warrantless searches by a law enforcement officer of the  
37 probationer's person and of the probationer's vehicle, upon a reasonable  
38 suspicion that the probationer is engaged in criminal activity or is in  
39 possession of a firearm, explosive device, or other deadly weapon listed in  
40 G.S. 14-269 without written permission of the court.
- 41 (15) Not use, possess, or control any illegal drug or controlled substance unless it  
42 has been prescribed for him or her by a licensed physician and is in the  
43 original container with the prescription number affixed on it; not knowingly  
44 associate with any known or previously convicted users, possessors, or  
45 sellers of any such illegal drugs or controlled substances; and not knowingly  
46 be present at or frequent any place where such illegal drugs or controlled  
47 substances are sold, kept, or used.
- 48 (16) Supply a breath, urine, or blood specimen for analysis of the possible  
49 presence of prohibited drugs or alcohol when instructed by the defendant's  
50 probation officer for purposes directly related to the probation supervision. If  
51 the results of the analysis are positive, the probationer may be required to



1 reimburse the Division of Adult Correction of the Department of Public  
2 Safety for the actual costs of drug or alcohol screening and testing.

3 ~~A defendant shall not pay costs associated with a substance abuse monitoring program or~~  
4 ~~any other special condition of probation in lieu of, or prior to, the payments required by this~~  
5 ~~subsection.~~

6 In addition to these regular conditions of probation, a defendant required to serve an active  
7 term of imprisonment as a condition of special probation pursuant to G.S. 15A-1344(e) or  
8 G.S. 15A-1351(a) shall, as additional regular conditions of probation, obey the rules and  
9 regulations of the Division of Adult Correction of the Department of Public Safety governing  
10 the conduct of inmates while imprisoned and report to a probation officer in the State of North  
11 Carolina within 72 hours of his discharge from the active term of imprisonment.

12 Regular conditions of probation apply to each defendant placed on supervised probation  
13 unless the presiding judge specifically exempts the defendant from one or more of the  
14 conditions in open court and in the judgment of the court. It is not necessary for the presiding  
15 judge to state each regular condition of probation in open court, but the conditions must be set  
16 forth in the judgment of the court.

17 Defendants placed on unsupervised probation are subject to the provisions of this  
18 subsection, except that defendants placed on unsupervised probation are not subject to the  
19 regular conditions contained in subdivisions (2), (3), (6), (8), (13), (14), (15), and (16) of this  
20 subsection."

21 **SECTION 5.** G.S. 15A-1343(b1) is amended by adding a new subdivision to read:

22 "(b1) Special Conditions. – In addition to the regular conditions of probation specified in  
23 subsection (b), the court may, as a condition of probation, require that during the probation the  
24 defendant comply with one or more of the following special conditions:

25

26 (2c) Abstain from alcohol consumption and submit to continuous alcohol  
27 monitoring when alcohol dependency or chronic abuse has been identified  
28 by a substance abuse assessment.

29

30 **SECTION 6.** G.S. 15A-1343.2(f) reads as rewritten:

31 "(f) Delegation to Probation Officer in Intermediate Punishments. — Unless the  
32 presiding judge specifically finds in the judgment of the court that delegation is not appropriate,  
33 the Section of Community Corrections of the Division of Adult Correction of the Department  
34 of Public Safety may require an offender sentenced to intermediate punishment to do any of the  
35 following:

36 (1) Perform up to 50 hours of community service, and pay the fee prescribed by  
37 law for this supervision.

38 (2) Submit to a curfew which requires the offender to remain in a specified  
39 place for a specified period each day and wear a device that permits the  
40 offender's compliance with the condition to be monitored electronically.

41 (3) Submit to substance abuse assessment, monitoring or ~~treatment-treatment~~,  
42 including continuous alcohol monitoring when abstinence from alcohol  
43 consumption has been specified as a term of probation.

44 (4) Participate in an educational or vocational skills development program,  
45 including an evidence-based program.

46 (5) Submit to satellite-based monitoring pursuant to Part 5 of Article 27A of  
47 Chapter 14 of the General Statutes, if the defendant is described by  
48 G.S. 14-208.40(a)(2).

49 (6) Submit to a period or periods of confinement in a local confinement facility  
50 for a total of no more than six days per month during any three separate  
51 months during the period of probation. The six days per month confinement

1 provided for in this subdivision may only be imposed as two-day or  
2 three-day consecutive periods. When a defendant is on probation for  
3 multiple judgments, confinement periods imposed under this subdivision  
4 shall run concurrently and may total no more than six days per month.

5 (7) Submit to house arrest with electronic monitoring.

6 (8) Report to the offender's probation officer on a frequency to be determined by  
7 the officer.

8 If the Section imposes any of the above requirements, then it may subsequently reduce or  
9 remove those same requirements.

10 The probation officer may exercise authority delegated to him or her by the court pursuant  
11 to subsection (f) of this section after administrative review and approval by a Chief Probation  
12 Officer. The offender may file a motion with the court to review the action taken by the  
13 probation officer. The offender shall be given notice of the right to seek such a court review.  
14 However, the offender shall have no right of review if he or she has signed a written waiver of  
15 rights as required by this subsection. The Section may exercise any authority delegated to it  
16 under this subsection only if it first determines that the offender has failed to comply with one  
17 or more of the conditions of probation imposed by the court or the offender is determined to be  
18 high risk based on the results of the risk assessment in G.S. 15A-1343.2, except that the  
19 condition at subdivision (6) of this subsection may not be imposed unless the Section  
20 determines that the offender failed to comply with one or more of the conditions imposed by  
21 the court. Nothing in this section shall be construed to limit the availability of the procedures  
22 authorized under G.S. 15A-1345.

23 The Division shall adopt guidelines and procedures to implement the requirements of this  
24 section, which shall include a supervisor's approval prior to exercise of the delegation of  
25 authority authorized by this section. Prior to imposing confinement pursuant to subdivision (6)  
26 of this subsection, the probationer must first be presented with a violation report, with the  
27 alleged violations noted and advised of the right (i) to a hearing before the court on the alleged  
28 violation, with the right to present relevant oral and written evidence; (ii) to have counsel at the  
29 hearing, and that one will be appointed if the probationer is indigent; (iii) to request witnesses  
30 who have relevant information concerning the alleged violations; and (iv) to examine any  
31 witnesses or evidence. Upon the signing of a waiver of rights by the probationer, with both the  
32 probation officer and a supervisor signing as witnesses, the probationer may be confined for the  
33 period designated on the violation report."

34 SECTION 7. G.S. 15A-1343.3 reads as rewritten:

35 "§ 15A-1343.3. Division of Adult Correction of the Department of Public Safety to  
36 establish regulations for continuous alcohol monitoring systems;systems;  
37 payment of fees; authority to terminate monitoring.

38 (a) The Division of Adult Correction of the Department of Public Safety shall establish  
39 regulations for continuous alcohol monitoring systems that are authorized for use by the courts  
40 as evidence that an offender on probation has abstained from the use of alcohol for a specified  
41 period of time. A "continuous alcohol monitoring system" is a device that is worn by a person  
42 that can detect, monitor, record, and report the amount of alcohol within the wearer's system  
43 over a continuous 24-hour daily basis. The regulations shall include the procedures for  
44 supervision of the offender, collection and monitoring of the results, and the transmission of the  
45 data to the court for consideration by the court. All courts, including those using continuous  
46 alcohol monitoring systems prior to July 4, 2007, shall comply with the regulations established  
47 by the Division pursuant to this section.

48 The Secretary, or the Secretary's designee, shall approve continuous alcohol monitoring  
49 systems for use by the courts prior to their use by a court as evidence of alcohol abstinence, or  
50 their use as a condition of probation. The Secretary shall not unreasonably withhold approval of  
51 a continuous alcohol monitoring system and shall consult with the Division of Purchase and

1 Contract in the Department of Administration to ensure that potential vendors are not  
2 discriminated against.

3 (b) Any fees or costs paid by an offender on probation in order to comply with  
4 continuous alcohol monitoring shall be paid directly to the monitoring provider. A monitoring  
5 provider shall not terminate the provision of continuous alcohol monitoring for nonpayment of  
6 fees unless authorized by the court."

7 **SECTION 8.** G.S. 20-28(a) reads as rewritten:

8 "(a) Driving While License Revoked. – Except as provided in subsection (a1) of this  
9 section, any person whose drivers license has been revoked who drives any motor vehicle upon  
10 the highways of the State while the license is revoked is guilty of a Class 1 misdemeanor. Upon  
11 conviction, the person's license shall be revoked for an additional period of one year for the  
12 first offense, two years for the second offense, and permanently for a third or subsequent  
13 offense.

14 If the person's license was originally revoked for an impaired driving revocation, the court  
15 may order as a condition of probation that the offender abstain from alcohol consumption and  
16 verify compliance by use of a continuous alcohol monitoring system, of a type approved by the  
17 Division of Adult Correction of the Department of Public Safety, for a minimum period of 90  
18 days.

19 The restoree of a revoked drivers license who operates a motor vehicle upon the highways  
20 of the State without maintaining financial responsibility as provided by law shall be punished  
21 as for driving without a license."

22 **SECTION 9.** G.S. 20-179 reads as rewritten:

23 "**§ 20-179. Sentencing hearing after conviction for impaired driving; determination of**  
24 **grossly aggravating and aggravating and mitigating factors; punishments.**

25 ...

26 (g) Level One Punishment. – A defendant subject to Level One punishment may be  
27 fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment  
28 that includes a minimum term of not less than 30 days and a maximum term of not more than  
29 24 months. The term of imprisonment may be suspended only if a condition of special  
30 probation is imposed to require the defendant to serve a term of imprisonment of at least 30  
31 days. A judge may reduce the minimum term of imprisonment required to a term of not less  
32 than 10 days if a condition of special probation is imposed to require that a defendant abstain  
33 from alcohol consumption and be monitored by a continuous alcohol monitoring system, of a  
34 type approved by the Division of Adult Correction of the Department of Public Safety, for a  
35 period of not less than 120 days. If the defendant is monitored on an approved continuous  
36 alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may  
37 be credited against the 120-day monitoring requirement for probation. If the defendant is placed  
38 on probation, the judge shall impose a requirement that the defendant obtain a substance abuse  
39 assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a  
40 drivers license and as a condition of probation. The judge may impose any other lawful  
41 condition of probation.

42 (h) Level Two Punishment. – A defendant subject to Level Two punishment may be  
43 fined up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that  
44 includes a minimum term of not less than seven days and a maximum term of not more than 12  
45 months. The term of imprisonment may be suspended only if a condition of special probation is  
46 imposed to require the defendant to serve a term of imprisonment of at least seven ~~days~~ days or  
47 to abstain from consuming alcohol for at least 90 consecutive days, as verified by a continuous  
48 alcohol monitoring system, of a type approved by the Division of Adult Correction of the  
49 Department of Public Safety. If the defendant is monitored on an approved continuous alcohol  
50 monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be  
51 credited against the 90-day monitoring requirement for probation. If the defendant is placed on

1 probation, the judge shall impose a requirement that the defendant obtain a substance abuse  
2 assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a  
3 drivers license and as a condition of probation. The judge may impose any other lawful  
4 condition of probation.

5 ...

6 ~~(h3) Any fees or costs paid pursuant to subsection (h1) of this section shall be paid to the~~  
7 ~~clerk of court for the county in which the judgment was entered or the deferred prosecution~~  
8 ~~agreement was filed. Fees or costs collected under this subsection shall be transmitted to the~~  
9 ~~entity providing the continuous alcohol monitoring system.~~

10 ...

11 (k2) Probationary Requirement for Abstinence and Use of Continuous Alcohol  
12 Monitoring. – The judge may order that as a condition of special probation for any level of  
13 offense under G.S. 20-170 the defendant abstain from alcohol consumption, as verified by a  
14 continuous alcohol monitoring system, of a type approved by the Division of Adult Correction  
15 of the Department of Public Safety.

16 (k3) The court, in the sentencing order, may authorize probation officers to require  
17 defendants to submit to continuous alcohol monitoring for assessment purposes if the defendant  
18 has been required to abstain from alcohol consumption during the term of probation and the  
19 probation officer believes the defendant is consuming alcohol. The defendant shall bear the  
20 costs of the continuous alcohol monitoring system if the use of the system has been authorized  
21 by a judge in accordance with this subsection.

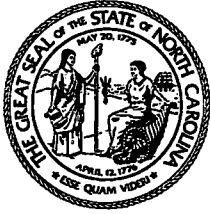
22 (k4) Notwithstanding the provisions of subsections (g), (h), (k2), and (k3) of this section,  
23 if the court finds, upon good cause shown, that the defendant should not be required to pay the  
24 costs of the continuous alcohol monitoring system, the court shall not impose the use of a  
25 continuous alcohol monitoring system unless the local governmental entity responsible for the  
26 incarceration of the defendant in the local confinement facility agrees to pay the costs of the  
27 system.

28 ...."

29 **SECTION 10.** G.S. 50-13.2 is amended by adding a new subsection to read:

30 "(b2) Any order for custody, including visitation, may, as a condition of such custody or  
31 visitation, require either or both parents, or any other person seeking custody or visitation, to  
32 abstain from consuming alcohol and may require submission to a continuous alcohol  
33 monitoring system, of a type approved by the Division of Adult Correction of the Department  
34 of Public Safety, to verify compliance with this condition of custody or visitation. Any order  
35 pursuant to this subsection shall include an order to the monitoring provider to report any  
36 violation of the order to the court and each party to the action. Failure to comply with this  
37 condition shall be grounds for civil or criminal contempt."

38 **SECTION 11.** This act becomes effective December 1, 2012, and applies to  
39 offenses committed or any custody and visitation orders issued on or after that date.



# HOUSE BILL 494: Continuous Alcohol Monitoring Law Changes

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 26, 2012
<b>Introduced by:</b>	Reps. M. Alexander, Guice, T. Moore, Stam	<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	PCS to Third Edition H494-CSSA-89		Committee Counsel

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**SUMMARY:** *The Proposed Committee Substitute (PCS) for House Bill 494 would allow the use of continuous alcohol monitoring systems as a condition of pretrial release, as a condition of probation, to mitigate punishments for impaired driving offenses, and to ensure compliance with child custody and visitation orders.*

## **BILL ANALYSIS:**

**Sections 1 and 2** of the PCS would allow the judge to impose as a condition of pretrial release that the defendant abstains from alcohol consumption, as verified by a continuous alcohol monitoring system, and that any violation of this condition be reported by the provider to the district attorney.<sup>1</sup> Section 2 is specific to pretrial release for domestic violence offenders.

**Section 3** of the PCS would add to the list of potential conditions for a community or intermediate punishment that the defendant abstain from alcohol consumption and comply with recommended treatment, as verified by a continuous alcohol monitoring system, when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.

Under current law, a defendant is not permitted to pay costs associated with a substance abuse monitoring system or any other special condition of probation instead of or prior to making payments required as a regular condition of probation, such as child support, supervision fees, courts costs, fines, and court-appointed counsel costs. **Section 4** of the PCS would delete this requirement.

**Section 5** of the PCS would authorize as a special condition of probation that the defendant abstain from alcohol consumption and submit to continuous alcohol monitoring when alcohol dependency or chronic abuse has been identified by a substance abuse assessment.

**Section 6** of the PCS would authorize a probation officer for someone sentenced to intermediate punishment to require continuous alcohol monitoring when abstinence from alcohol consumption has been specified as a term of probation.

**Section 7** of the PCS provides that an offender on continuous alcohol monitoring as a condition of probation must pay fees for the monitoring directly to the provider. The provider must get authorization from the court before it may terminate the monitoring for nonpayment.

**Section 8** of the PCS would authorize the judge to require as a condition of probation abstinence from alcohol and the use of continuous alcohol monitoring for a minimum of 90 days, for a defendant convicted of driving while license revoked where the revocation is for a DWI under G.S. 20-138.1.

**Section 9** would make changes to DWI sentencing relating to the use of continuous alcohol monitoring as follows:

- **Level One sentencing** – A judge may reduce the minimum term of imprisonment to not less than 10 days if a condition of special probation is imposed to require abstinence from alcohol and

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<sup>1</sup> In counties with pretrial release services, the district attorney can direct the provider to report to pretrial release services.

# House PCS 494

Page 2

continuous alcohol monitoring for a period of at least 120 days. Up to 60 days of pretrial continuous alcohol monitoring may be credited against the 120 days.

- Level Two sentencing – A judge could impose as a condition of special probation a 7-day sentence or at least 90 days of continuous alcohol monitoring. Up to 60 days of pretrial continuous alcohol monitoring may be credited against the 90 days.
- Deletes provisions requiring fees for monitoring to be paid through the clerk of court.
- Authorizes the judge to order abstinence from alcohol and the use of a continuous alcohol monitoring system for any level of DWI.
- Authorizes probation officers, with a judge's authorization in the sentencing order, to require defendants to submit to continuous alcohol monitoring for assessment purposes if the defendant has been required to abstain from alcohol consumption and the probation officer believes the defendant is consuming alcohol.

**Section 10** of the PCS would authorize a court to include as a condition of a custody or visitation order that either or both parents, or any other person seeking custody or visitation, abstain from consuming alcohol and may require submission to continuous alcohol monitoring. Failure to comply with this condition shall be grounds for civil or criminal contempt. The provider would be required to notify the court and each party to the action of noncompliance.

**EFFECTIVE DATE:** This act becomes effective December 1, 2012, and applies to offenses committed or any custody or visitation orders issued on or after that date.

*H494-SMSA-122(CSSA-89) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 1044  
Committee Substitute Favorable 6/19/12

Short Title: Motorcycle Insurance Discount/Military.

(Public)

Sponsors:

Referred to:

May 23, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW MEMBERS OF THE MILITARY WHO HAVE TAKEN A  
3 COMPARABLE MOTORCYCLE SAFETY PROGRAM PROVIDED BY FEDERALLY  
4 CERTIFIED INSTRUCTORS TO RECEIVE THE SAME MOTORCYCLE INSURANCE  
5 DISCOUNT AS CITIZENS WHO COMPLETE THE MOTORCYCLE SAFETY  
6 INSTRUCTION PROGRAM, AS RECOMMENDED BY THE HOUSE SELECT  
7 COMMITTEE ON MILITARY AFFAIRS.

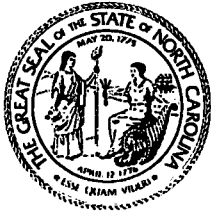
8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 58-36-65(m) reads as rewritten:

10 "(m) Notwithstanding any other provision of law, with respect to motorcycle insurance  
11 under the jurisdiction of the Bureau, any member of the Bureau may apply for and use in this  
12 State, subject to the Commissioner's approval, a downward deviation in the rates of insureds  
13 who show proof of satisfactory completion of the Motorcycle Safety Instruction ~~Program~~  
14 Program or a comparable motorcycle safety program provided by federally certified instructors  
15 for members of the military."

16 SECTION 2. This act becomes effective October 1, 2012, and applies to policies  
17 issued or renewed on or after that date.





## HOUSE BILL 1044: Motorcycle Insurance Discount/Military

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 26, 2012
<b>Introduced by:</b>	Reps. Shepard, Cook	<b>Prepared by:</b>	Denise Adams
<b>Analysis of:</b>	Second Edition		Committee Staff

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**SUMMARY:** *House Bill 1044 would allow insurers to charge a reduced motorcycle insurance rate for members of the military who have successfully completed a motorcycle safety program taught by a federally certified instructor that is comparable to the programs currently offered by the community colleges.*

**CURRENT LAW:** G.S. 58-36-65 directs the North Carolina Rate Bureau ("Bureau") to file with the Commissioner of Insurance ("Commissioner") a Safe Driver Incentive Plan which allows for downward deviations in rates for safe driving records and surcharges for driving records with at-fault accidents and moving traffic violations. Subsection (m) allows an insurer to apply for and, subject to approval by the Commissioner, use a downward deviation in motorcycle insurance rates for individuals who have successfully completed the Motorcycle Safety Instruction Program offered by a community college.

**BILL ANALYSIS:** The bill would allow a similar downward deviation in motorcycle insurance rates for members of the military who have taken and passed a motorcycle safety program that is comparable to the program offered by the community colleges and that is taught by a federally certified instructor. No insurer, under current law or under the proposed change, is required to provide the discount.

**BACKGROUND:** House Bill 1044 came as a recommendation of the House Select Committee on Military Affairs. The Committee found that the statutory motorcycle insurance discount allowed for individuals who complete a motorcycle safety program through the community college system does not apply to military service members who complete a motorcycle safety course through the federal government.

**EFFECTIVE DATE:** The act becomes effective October 1, 2012, and would apply to policies issued or renewed on or after that date.

*Kory Goldsmith, Counsel to House Insurance, substantially contributed to this summary.*

111044-SMTB-44(e2) v1



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 1173  
Second Edition Engrossed 6/21/12

Short Title: Absconding Prob. Violators Forfeit Benefits. (Public)

Sponsors: Representatives LaRoque and Saine (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee C, if favorable, Finance.

May 30, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE THAT A PROBATION VIOLATOR WHO ABSCONDS OR  
3 OTHERWISE WILLFULLY AVOIDS ARREST AFTER THE ISSUANCE OF A  
4 WARRANT SHALL FORFEIT ANY PUBLIC ASSISTANCE BENEFITS UNTIL  
5 SURRENDERING TO THE COURT.  
6 The General Assembly of North Carolina enacts:  
7 SECTION 1. G.S. 15A-1345 is amended by adding a new subsection to read:  
8 "(a1) Suspension of Public Assistance Benefits for Probation Violators Who Avoid  
9 Arrest. – The court may order the suspension of any public assistance benefits that are being  
10 received by a probationer for whom the court has issued an order for arrest for violation of the  
11 conditions of probation but who is absconding or otherwise willfully avoiding arrest. The  
12 suspension of benefits shall continue until such time as the probationer surrenders to or is  
13 otherwise brought under the jurisdiction of the court. For purposes of this section, the term  
14 "public assistance benefits" includes unemployment benefits, Medicaid or other medical  
15 assistance benefits, Work First Family Assistance, food and nutrition benefits, any other  
16 programs of public assistance under Article 2 of Chapter 108A of the General Statutes, and any  
17 other financial assistance of any kind being paid to the probationer from State or federal funds.  
18 Nothing in this subsection shall be construed to suspend, or in any way affect the eligibility for,  
19 any public assistance benefits that are being received by a family member of a probation  
20 violator."  
21 SECTION 2. The Division of Social Services and the Division of Medical  
22 Assistance of the Department of Health and Human Services and the Division of Employment  
23 Security of the Department of Commerce shall adopt rules for the provision of assistance by  
24 those divisions to local law enforcement in the enforcement of this act.  
25 SECTION 3. Section 1 of this act becomes effective October 1, 2012. The  
26 remainder of this act is effective when it becomes law.



\* H 1 1 7 3 - V - 2 \*



# HOUSE BILL 1173: Absconding Prob. Violators Forfeit Benefits

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 27, 2012
<b>Introduced by:</b>	Reps. LaRoque, Saine	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	Second Edition		Committee Counsel

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**SUMMARY:** *House Bill 1173 would authorize the court to order the suspension of any public assistance benefits for a probationer who absconds or otherwise willfully avoids arrest after the issuance of a warrant for a probation violation until he or she surrenders to or is otherwise brought under the jurisdiction of the court. House Bill 1173 specifies that the eligibility of violators' family members for public assistance benefits would not be affected.*

## **BILL ANALYSIS:**

**Section 1** of House Bill 1173 would create a new subsection of G.S. 15A-1345 in the Criminal Procedure Act, giving the court the discretion to suspend the receipt of any public assistance benefits by a probation violator for whom an arrest warrant has been issued. The suspension of benefits would continue until the probationer surrenders to or is otherwise brought under the jurisdiction of the court. The eligibility of violators' family members for public assistance would not be affected. "Public assistance benefits" includes:

- Unemployment benefits.
- Medicaid or other medical assistance benefits.
- Work First Family Assistance.
- Food and nutrition benefits.
- Public assistance programs under G.S. Chapter 108A (Social Services), Article 2.
- Any other government-funded financial assistance.

**Section 2** would direct the Department of Health and Human Services and the Department of Commerce to adopt rules to assist local law enforcement in enforcing the provisions of this act.

**EFFECTIVE DATE:** Section 1 of this act becomes effective October 1, 2012. The remainder of this act is effective when it becomes law.

*H1173-SMRN-99(e2) v1*

*Jan Paul, Counsel to House Judiciary Subcommittee C, contributed substantially to the drafting of this summary.*

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Friday, June 29, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO  
SENATE COMMITTEE SUBSTITUTE BILL**

<b>H.B.(CS #2) 494</b>	<b>Continuous Alcohol Monitoring Law Changes.</b>
	Draft Number: 30669
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

**TOTAL REPORTED: 1**

**Committee Clerk Comments:**

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Wednesday, June 27, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL**

S.B.	<b>847</b>	General Statutes Comm. Technical Corrections.
		Draft Number: 95245
		Sequential Referral: None
		Recommended Referral: None
		Long Title Amended: Yes

**TOTAL REPORTED: 1**

Committee Clerk Comments:

June 12: Letters delivered by Pryor Gibson asking for Jim to draft a response:

Pryor Gibson called for Jim to discuss letters to the Governor from Sen. White and Rep. Current – Jim was not available, so Pryor hand delivered the letters asking that a response be drafted for Jim’s signature on behalf of the Governor; he also stated that the Governor would like to discuss these letters with Jim while on the road traveling later that day.

June 13: Letters were drafted; per standard procedure the letters were sent to our Communications Director for review and then to Governor’s office for their review

Letters were drafted; Jim asked me to send them to our Communications Director to review and then to send them to Chris Mackey and Pryor Gibson in the Governor’s Office for their review. Our Communications Director was out of the office until after 2:00 p.m., so it was around 4:30 when I sent them to Pryor Gibson. Our communications director had already forwarded them to Chris Mackey earlier but I do not know the time that this was done.

\*\*\*\*\*

June 14:

NCDOT

Pryor Gibson called our office asking to speak Jim Trogdon. I told Mr. Gibson that Jim was in Charlotte on National Guard business but he could try his cell and that I would also contact him and let him know that Mr. Gibson wanted to talk to him.

At 9:43 a.m. I texted Jim and told him Mr. Gibson had called to discuss a minor change to the letter and that he was going to call Jim’s cell; Jim texted me back immediately that he was in the middle of an exercise and to ask Mr. Gibson to work with Deputy Secretary Susan Coward on the change. I immediately called Mr. Gibson and left him the message. I then shared this information with Susan.

At approximately 10:15 Mr. Gibson came to our office, spoke briefly with Susan, and handed her the letters with the noted revisions; she looked them over, handed them to me, and asked me to make the changes as noted. I told her it would take me a few minutes because I also needed to change the opening paragraph to address the ferry tolling issue. She asked Mr. Gibson to give us 30 minutes and we would bring them to him; however, he returned to the office in about 10-15 minutes and said he needed to have them to the legislature before 11:00. I finished the letters and laid them on my desk for Susan to review and sign. She told Mr. Gibson that she usually signed her name and wrote “for” above the person’s name for whom she was signing. Mr. Gibson stated he would rather she sign Jim’s name. As she appeared to waiver between signing her name or Jim’s name, I asked if she would prefer that I add Jim’s electronic signature; she and Mr. Gibson both agreed. Mr. Gibson took the letters and left.

At 11:11 a.m., I emailed Jim notifying him of the revised sentence.

At 12:20 p.m., Jim responded to me, Beau, and Susan – “major problem with the sentence. Not true.”

Susan had left the office, so I emailed Bobby, our Chief of Staff, asking what we should do to correct the letter; about 5-10 minutes later he was in the office and had been on the phone with Jim. He said Jim was on his way back to Raleigh to address this problem.

At 12:39 p.m., Susan emailed Jim, Bobby, and myself – “I take full responsibility in trusting the edit as presented and apologize to everyone.”

Around 4:00 p.m., Jim returned to the office. Retraction letters were drafted, and then Beau and Jim left the office. When they returned, Jim signed the retraction letters and asked me to scan/email them to Sen. White and Rep. Current and copy Mr. Gibson. The emails containing the retraction were sent at approximately 5:30 p.m.

**I deeply regret applying Jim’s electronic signature to these letters - knowing he was not aware of the specifics of the change that had been made; I apologize to Jim Trogdon and to the department. (Although I felt a sense of urgency due to the time deadline and a heightened sense of responsiveness to the Governor’s Office, I did not feel threatened or coerced at any time.)**

Vicki Stanley (June 27, 2012)

## Statement of Events

On the morning of June 14, I was focused on an important piece of legislation that was the subject of a meeting in the Speaker's office, involving Secretary Conti, the Department's CFO and the Treasurer.

Around 9:00 a.m., Mr. Trogdon's administrative assistant informed me that Mr. Gibson had contacted her requesting to talk with Mr. Trogdon regarding edits to a draft letter. Mr. Trogdon was in Charlotte and not available between 9:00 and 12:00 noon. Mr. Trogdon requested that they work with me on the proposed changes.

Sometime around 9:30 Mr. Gibson arrived at the DOT office and presented the proposed changes to the draft letters. He said they had been reviewed by the Governor's staff and attorneys. Specifically, he stated that the modifications clarified that the Department could proceed with the projects in the absence of legal actions and that the letters were needed before 11:00 a.m. I was not intimately familiar with the funding timing issues associated with the projects that the letters referred to and in my quick review of the letters, I did not notice anything in the revisions that appeared inappropriate or inaccurate.

Mr. Gibson returned to the office sometime around 10:00 and waited while the letters were being finalized. Around the same time, the Secretary and our CFO returned and we conferenced in my office to debrief on their meeting. When the revised letters were ready I informed Mr. Gibson that I sign my name on behalf of Mr. Trogdon when signing for him in his absence. Mr. Gibson stated that the letters needed Mr. Trogdon's signature. It was brought to my attention that an electronic signature was available. Since the modification didn't appear significant and he needed the letters in a hurry, I agreed that the electronic signature could be affixed. At that point, I went back into my meeting.

Later that day Mr. Trogdon's assistant sent him an emailed regarding what had transpired and included copies of the letters. Mr. Trogdon replied by email that the letters were not accurate.

Upon reading his e-mail, I replied that I took full responsibility for authorizing the edit as presented. He recalled the letters that afternoon when he returned from Charlotte.

I was focused on other issues, and not intimately familiar with the funding timing issues associated with those projects. Mr. Gibson was in a hurry for the letters. In haste, a mistake was made.

The Department of Transportation has worked to earn the trust and confidence of the public and this General Assembly. We have worked and will continue to work in an open and transparent manner. Regarding the unfortunate situation from two weeks ago, I took responsibility with my boss where I was at fault, apologized to him and my colleagues, and express the same to you today.



e

Good morning, Mr. Chairman and members of the Committee:

On or about June 13<sup>th</sup>, a Wednesday afternoon, Mr. Gibson asked for my assistance with a matter involving DOT and the budget for fiscal year 2012-2013. He showed me a June 8<sup>th</sup> letter signed by the Chief Operating Officer of DOT. This letter indicated that because of expected litigation involving two projects, there was no need for the budget to include funding for the projects until fiscal year – 2013-2014. This was contrary to the budget passed by the General Assembly, the Governor's recommended budget adjustments and the House budget adjustments that had passed the House only 8 days before which all kept the funding in place for fiscal year 2012-2013. To my knowledge, the June 8<sup>th</sup> letter was the first time DOT had suggested that funding was not needed.

Mr. Gibson and I discussed a draft letter that had been circulating between Mr. Gibson and the Chief Operating Officer which was to supplement the June 8<sup>th</sup> letter. This draft letter left no option for funding and construction of the two projects if the expected litigation never occurred or was resolved prior to July 1, 2013. Mr. Gibson asked for my assistance in drafting a new sentence addressing this potential. I think many of you have seen that draft letter that included my suggested modification. To my knowledge, Mr. Gibson then delivered the draft letter for DOT's review and approval.

I have since learned that the Chief Operating Officer knew something that Mr. Gibson, and I assume the Deputy Secretary (Susan Coward), did not – that DOT had borrowed more money than it needed for a third project, the Monroe Bypass. The Chief Operating Officer knew that he planned to use this "extra money" for the other two projects at issue if it was needed.

Happy to take any questions for as long as you need.

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Wednesday, June 27, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

H.B.	<b>1105</b>	Modify Taxation of HOA Property	
		Sequential Referral:	None
		Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comments:

# VISITOR REGISTRATION SHEET

Rules and Operations of the Senate

Committee Name

Date

June 27, 2012

**VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Michelle Frasier	MFTS
ASJ	NCB
Allison Walker	Nelson Mullins
Christie Burdick	CHPA
Johanna Reese	DMV
Rob Parratt	Edmisten, Webb & Moore
MIKE WATERS	NCRPA
Bill Rowe	NC Justice Center
Jennifer Epperson	NC DOJ
Pence Robinson	NCDOT
Gary Barnes	State Health Plan
JLear	NCMC
Melania	DCR
Cathy Greene RN	Nurse of the Day
Kara Weishaar	SA

# VISITOR REGISTRATION SHEET

## Rules and Operations of the Senate

### Committee Name

Date

June 27, 2012

**VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Shawn Brooks	Ward and South
Lynn Burke	Community Success Initiative 1166 N. Blount St., Raleigh NC 27604
Rick Kaylor	Kaylor Law Firm
Chris Valauri	Valauri Group LLC
Alicia Hammons	Rep. Steve Martin
David Elmore	Moore & Van Allen
Wyatt Pettengill	NC State Bureau of Inv.
Heather Barrett	Williams Muller
M.P. Mann	NCBAAT
Jim Stanfill	NCEP
Christine Craig	Wake Med
Dave Knight	DPENR
Matt Gross	NCE
Bruce McGowan	Sen. Meredith Office
Graham Dean	NELM

# VISITOR REGISTRATION SHEET

## Rules and Operations of the Senate Committee Name

Date

June 27, 2012

VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<del>Dea</del>	NCRMA
Elise Quick	Triouma Solutions
Deatrice Williams	CUCA
Susanna Hailey	KML Gates
Amanda Dixon	Sen. Hise's Office
Mia Bailey	Electric Cities
Cameron Hailey	" "
Drew Saunders	" "
Pattience WATT	ALCAFA
Susanna Davis	Gov Office
Nash Roberts	RSS
Lafonia Strickland	NCACC
John Eick	NCACE
Danich Bowes	NC Justice Center
W. Laurel	NCICU

# VISITOR REGISTRATION SHEET

Rules and Operations of the Senate  
Committee Name

Date

June 27, 2012

VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Brad Fowler	NCAOC
Mildred Spearman	NCAOC
Peg O'Connell	AHA
Betsy Vetter	AHA
Eric Schweltpy	UNC-CH
Dan Crawford	NCLCV
Diana Kees	DENR
Mike Abraczynski	DENR-DAQ
Meredith Swallen	The Policy Group
Rubyn's Ltd	R. Lind & Sons
Tim KENT	NC Beer & Wine
Kathy Hawkins	Duke Energy
Mary Madek Abill	SELC
BERRY JENKINS	CAROLINAS AGC
Dan Furrer	ISANC

# VISITOR REGISTRATION SHEET

## Rules and Operations of the Senate

### Committee Name

Date

June 27, 2012

**VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
John Patino	NCAPA
Rick Zechini	Progress Energy
Henry Jones	Jordan Price
Lewis Pully	LEWIS Pully
Cody Thomas	NCAR
Bill Scobbin	JES
Dave Heron	WM
Lisa Martin	NC HBPA
lyl	lyl
Jack Gashion	NC Charles
Chuck Stone	SEANC
Frank	Misc
BT	NC DOT
Dave S	CARE
Ashleigh Thomson	MWC





MINUTES

RULES AND OPERATIONS OF THE SENATE

June 28, 2012

The Committee on Rules and Operations of the Senate met on June 28, 2012 at 9:00 a.m. in room 1027 of the Legislative Building. All members of the committee were present. Senator Apodaca presided.

Senator Apodaca read a statement to the committee. This is Attachment A of these minutes. At the conclusion of the statement, Senator Apodaca recommended that the record of these proceedings be reported to the North Carolina Ethics Commission. Senator Brown made a motion that the findings be sent to the NC Ethics Commission. Senator Apodaca asked for discussion on the motion. These remarks are recorded in these minutes which are Attachment B of these minutes. After a lengthy discussion, Senator Apodaca recognized Senator Brown's previous motion. The motion carried.

After a 10 recess, the committee reconvened at 10:00 a.m. to conduct regular business.


**HOUSE BILL 334 – SPORTS AGENTS/DMV POLICE AUTHORITY** – Senator Brock brought the Proposed Committee Substitute before the committee and moved for adoption Motion carried. Senator Dannelly explained the PCS. Senator Jackson moved for a favorable report to the PCS. Motion carried.

**HOUSE BILL 1173 – ABSCONDING PROB. VIOLATORS FORFEIT BENEFITS** - Representative Saine explained the bill. Senator Stein sent forward an amendment and moved for adoption. Motion carried. Senator Stein then moved for a favorable report as amended and rolled into a PCS. Motion carried.

**HOUSE BILL 278 – WAKE/KINSTON LOCAL ACT** – Senator Stevens moved to adopt the Proposed Committee Substitute and explained the PCS. Senator Blue moved for a favorable report to the PCS. Motion carried.

**HOUSE BILL 320 – WATER RESOURCES FLEXIBILITY** – Senator Harrington moved to adopt the Proposed Committee Substitute. Senator Brown moved for a favorable report to the PCS. Motion carried.

The meeting adjourned at 10:25 a.m.



Senator Tom Apodaca, Chairman



Carolyn Gooden, Committee Assistant

**Senate Rules and Operations Committee  
Thursday, June 28, 2012, 9:00 AM  
1027**

**AGENDA**

**Welcome and Opening Remarks**

**Introduction of Pages**

**Bills**

**HB 278—School Calendar/Onslow County**

**Hastings**

**HB 320—Continue P3 Study**

**Carney, McComas, Ross, McGee**

**HB 334—Report on Fitness Testing in Schools**

**Insko, Bell, Harrison, LaRoque**

## Talking Points

- Members of the Committee, when this matter began I promised you that we would go where the facts take us. We would do so diligently and quickly. I believe we have done so.
- Yesterday, we heard testimony from two employees at the Department of Transportation who could speak to the whole key to this matter: who signed a letter in the name of a well-respected official when that letter directly contradicted what the official had previously told the Senate...and why.
- At the heart of this matter is whether the North Carolina General Assembly can safely rely on the information presented to it as it considers the people's business. That question is important, whether we are Republicans or Democrats, whether it's the Perdue Administration or another. It will remain important long after we are gone.
- Related to that question is whether career executive branch employees were pressured or coerced into doing something that they did not want to do.
- The facts being what they appear to be, there were only three people who could tell us what transpired at the Department of Transportation that Thursday morning. We have now heard from all three of them.
- We asked the hard questions, and, to their credit, the D.O.T. employees--for all the world to see--answered difficult questions in trying circumstances with candor and humility. For that, I thank Ms. Stanley and Ms. Coward.
- Yesterday was uncomfortable for all of us. The nature of this inquiry meant discomfort could not be avoided. I thought that Senator

Newton did a noble job of asking the questions that had to be asked—in a way that was professional, thoughtful and respectful.

- But, at the end of the day, our duty to shine the brightest sunshine on the workings of government trumps everything else.
- Senator Blue mentioned yesterday that he'd never seen anything like this. As I said yesterday, and I'll say again, I hope we never see anything like this again. This body cannot do its job without candid, accurate and thoughtful policy input from the executive branch.
- In the end, what we know at this point, is that a senior official in the Governor's Office put several people in uncomfortable positions in a way that could have been avoided.
- We also know that, at minimum, haste and inattention produced a letter that had an entirely different meaning from the one the signatory had sent only days earlier. We know that the Governor's Office changed the specific portion of the letter that Jim Trogdon had added to ensure accuracy.
- We also know that Pryor Gibson spoke to Jim Trogdon at least two days before he arrived at the DOT on Thursday morning and that the original draft sent by the Governor's Office to DOT did not misstate Jim Trogdon's prior position.
- Even after seeing the neutral draft prepared by the Governor's Office on Tuesday, after speaking directly to Jim Trogdon that day and after seeing the neutral draft letters Jim Trogdon sent Wednesday afternoon, Pryor Gibson chose to convince others that General Trogdon would have supported such a sea change in positions.
- The altered letters were then rushed to the General Assembly in time to attempt to influence debate on one of the most important matters we take up.

- We also know that the misstatement was so egregious that the signatory rushed back to his office to retract it immediately. General Trogdon—and by their accounts his subordinates—know how damaging such errors can be.
- The conduct of the Governor's Legislative Liaison can only fuel cynicism in the eyes of the people. We know that, by his own admission, he did not use the care that we must demand from public officials.
- Accordingly, I believe this matter must be referred to an outside body for further investigation of these events. Specifically, I feel the following questions demand scrutiny from an outside authority:
  - Whether Pryor Gibson acted within his authority and consistent with ethical norms when he obtained significantly altered letters by the hand of Jim Trogdon from reluctant Department of Transportation employees.
  - Whether the letters, purported to be signed by a respected official, were intended to mislead the Senate in its consideration of this year's budget.
- With that, I am going to make a motion that the record of these proceedings be referred to the Chairman of the Ethics Commission with this Committee's recommendation for further inquiry.

Senator Stein: You're asking that this be dragged on to look what the intent was, whether there was intent to mislead. The only parties that were to the edit of that letter have all testified at length yesterday under fairly intense examination and we know from the two employees at D.O.T. that D.O.T. did not feel any pressure other than by the time, did not feel any threats from the Governor's office, they didn't feel any threats from to their employment, they were just trying to be responsive to the General Assembly which is what usually we expect from the Executive Branch when we are in session. So we know what their frame of mind was, we heard testimony from Mr. McLaughlin and Mr. Gibson that they thought they were clarifying what was in the letter, that litigation can be resolved. First of all, the litigation hasn't even been filed and had it been filed it could have been resolved and so they were just pointing out that possibility; which we've all come to learn, you draft the letter, you share it with somebody else, they have an idea, they send it back, then you say 'Wait, that's not right' by the way I caught another point that you made elsewhere that I don't agree with and you pass it back and forth. The only thing that happened is the unfortunate circumstance that Mr. Trogdon was unavailable. Had he been available everyone would have called him and said, 'Do you think this change is okay?' We know what the intent was, why we want to continue this process is beyond me.

Senator Rabon: Thank you Mr. Chairman and thank you for your efforts in this committee and efforts in looking into this. I hope this is germane. Unless one is familiar with the history and background of this issue or this project it's difficult to fully understand why people would go to such extreme measures to ensure that these projects are kept in statute and that reason is had this moved forward, or should it move forward, potentially the tax payers and Department of Transportation of this State can give us a whoopin' because it's a \$1.3 billion dollar project, that's a lot of money and a lot of people can gain from that. I hope the Ethics Committee will look into the history and to see why people are willing to do such extreme things. Because the reason is money, folks. And I hope they look back and they wonder that and they see... {inaudible}... Department, and that this is a mistake. And hope they will abolish this type of behavior.

Senator Stein: Mr. President and Senator Rabon, if money was the cause of this then you are alleging that this letter was modified for someone's financial gain or benefit?

Senator Rabon: I think had this gone forward and keeping these projects in, the issue here is basically certain projects stay in statute and certain projects come out of statute. Knowing what this year's budget was going to do it put some people in fear that they might down the road have potential personal loss. Not this year, not this budget, potentially in another budget. I truly believe that. I could be wrong, but I believe that.

Senator Mansfield: I am by no means a lawyer but seems like- and I when I first looked at this I was angry and upset because this is bad government. Everyone knows I am here for good government. But then we had the hearing and I kept looking for the smoking gun and when Mrs. Stanley said 'It's my fault' I thought, at least for me she kept saying over and over 'It's my fault, no one coerced me, no one pushed me, no one nudged me, no one sent me a text message, there was no secret guy at the table telling me what to do, it's totally my fault' then when the young lady after her came and said 'Hey it's our fault, no one pushed us.' That's when I thought there is no smoking gun. Do I think it was in the best

interest of the State, probably not. Do I think the way they went about it, probably not. Do I think there were malicious reasons for her to do it to make sure some other folks got money, I don't believe that either. Unless there's some evidence that someone else has that wasn't given yesterday or the day before or last week I just don't see the smoking gun. I don't like what happened, but at this point I almost have to believe it was sloppiness, people not paying attention to detail more so than I think there is some malicious reason. I am not sure this needs to be held {inaudible} and turned into an ethics complaint when I think everyone in this room now, it's hard for us to say that this was done maliciously. Was it the way I would have done it in my office? No. I do have some questions, I have to admit. I gotta say that if I guy says this policy decision and then out of the same office a different policy position, then I get that. But then when his administrative aide comes in says 'It's my fault, you can't blame anybody else but me.' I just don't see the smoking gun.

Senator Newton: Inquiry of the Chair if I could Mr. Chairman?

Senator Apodaca: Sure.

Senator Newton: The motion before us is to refer it to the State Ethics Commission, is that right?

Senator Apodaca: Correct.

Senator Newton: We are not talking about the Ethics Committee that we have here in the Legislative Body, right?

Senator Apodaca: Right, State Ethics Commission.

Senator Newton: If I could... I appreciate what Senator Mansfield says and also Senator Stein. I didn't enjoy questioning these ladies yesterday, and I don't think that they did anything wrong. Personally, I don't think they did anything wrong and quite honestly I don't think they should be taking the blame. I think it's quite admirable and humble of them to suggest that it was their fault. I never heard them say, and I don't have the transcript in front of me, but I don't recall anybody saying 'Can't blame anybody but me.' But they clearly took a lot of responsibility that I really don't think fell on them. Mr. Pryor is a former legislator. Mr. Pryor knows how this body operates. He's been around here a lot longer than me. Mr. Pryor knew exactly what he was doing, in my belief. He knew exactly what the policy was. Now why he wanted to do it, I don't know. I'm not going to say it was because of money or something like that. I don't know why he did it. But in my belief he knew exactly what he doing. And I believe that is highly deserving of a referral to the Ethics Commission. I have no idea about the Ethics Commission, whether they can try and review this, whether there is anything sanctional they can do, I'm not sure because I am not on that Commission and I haven't studied their rules. Perhaps we should look at what their authority is and see {inaudible} because I want to echo what the chairman said, I don't care who's administration it is, I don't care what agency it is, I don't care what interest group it is—if someone knowingly tries to pull a hoax on this institution in a serious debate like that, that challenges all of us, not just as individuals. That challenges our state. This is about this institution. This is about this General Assembly. And we should not tolerate it. And if that is what Pryor Gibson did, and I'm saying it, if that's what he did, I'll leave it to the Commission and I'll follow whatever they say. If that's what he did, everybody in

this room and everybody in this body ought to at least decide in their own mind that they will not tolerate it because if the McCrory administration does that to me, I am going to call them on it. And I thought a lot about this inquiry before we did it, I prayed about it a lot, because I did not want to put a spotlight on these ladies because going into it I didn't think they did anything wrong. I think they were used. And I think we ought to send it to the Commission to have them determine exactly who and why and whether they were used.

Senator Mansfield: I share Senator Newton's passion. And I honestly believe that everything he just said he honestly believes. But the Chair said we were going to go where the facts lead, and again I'm not an attorney, but the facts in this case—you cannot prove any of the stuff that Senator Newton just said about Mr. Gibson. I'm not here to defend Mr. Gibson. If this happened in my office personally you wouldn't be there. That's honest. However, since we're here in this governing body do the facts lead us to where we suppose, we think, we might have—those facts are not there. No one said this guy walked in our office and had us to do this to make sure there was a policy change or a hoax or a fabrication, or will be given the ability to use this argument on the Senate floor. Could he have had those intentions? Certainly. Can we prove them? No. Does it look like he did some sloppy work? Yes. Am I proud of that? No. Am I proud of what happened on the Senate Floor {inaudible} ? No. Not at all. But are the facts, and this is what I keep going back to, do the facts lead us there, can we put on a table: step 1, step 2, step 3, step 4; that leads us to say well this guy maliciously with intent went to that office, change this letter, had her change the letter, and affix a signature on it to get X gain out of it. I don't see it. If Senator Rabon or Senator Newton or Senator Apodaca can walk through those steps with me I'm there with you, and I'll support what you say, but right now I don't see those facts.

Senator Apodaca: Senator Mansfield, I think you bring up a very valid point. And I think this is exactly why we make the recommendation that we are making. It goes to the Ethics Commission and not to {inaudible}. I don't see the criminal intent but I certainly see ethical issues at play here and I think if you think through it enough you'll see those at play here too. So I think our best course of action is the Ethics Commission and not law enforcement. That's my belief. And I think that's a great plan. Senator Nesbitt?

Senator Nesbitt: Thank you Mr. Chairman. I've tried on this before and it's gotten pretty short shifted here but if you look at this whole situation it's had absolutely no effect on this General Assembly, no effect on debate. Mr Trogden's original letter said we don't need the money this year but we need it in future years. What our budget did was kill it in future years. The budget went against what Mr. Trogden said to start with. The amendment that was offered on the floor said take it out this year like Mr. Trogden said we didn't need, but put it back in for future years. Now the chair has told me that it was a bad project and it should be killed. That's what he was trying to do. That went against both letters. And when you get into a situation where you've got no harm, no foul and the letter was actually off point because on the Senate Floor I've asked, I think the amendment is in the evidence, I've asked for it to be brought 4 or 5 times, the amendment would have left the money out for the first year. It did not rely on that second letter, wasn't used, and had something caused us to do something that costs the taxpayers money or something like that, you've got a little more course {inaudible}, but I'm gonna tell you something, we spend, go in there and all that that paper on my desk. All we do is go through paper trying to figure out where the truth is. If you think everything somebody hands you is true you need a



remedial class. Their advocating, their pushing their agenda's, their doing what they think they need to do. If you think every time somebody stands up on the floor of the Senate to tell you something is the truth, you're missing somethin'. It's their opinion. And that's all we have here. That's all we have. When we listen to everybody, I wish we'd heard again from Mr. Trogden because I think he would have confirmed that he intended to start these projects if the litigation was not there but he just didn't have enough money to do it with {inaudible}. And he would have told you that. These people said if the litigation doesn't occur we need to start the project, same thing. Just in a different way. The truth of the matter is we were willing to conceive {inaudible} don't put the money in but don't take these things out to kill them. When you take a future statutory commitment of gap funding out of the budget, out of the statutes, you kill the project. And everybody knows there's a little deception there because everybody was saying oh you can put it back in. Well, when you don't commit to that gap funding for future years nobody will {inaudible} the bonds and that is what was killing the project. That's what everybody was trying to get over here. I think on behalf of Senator White there was some feeling among us that people were using Mr. Trogden to write a letter to say that D.O.T wasn't for the project, that's why he was asking for help; To show they were in fact in support of the project because our budget killed it. That's the deal. We can double down and double down and double down but that's where we are.

Senator Apodaca: In comment to that, I reviewed the transcript of the floor discussion and it is my opinion in that transcript that is was plainly referred to letter delivered that morning when Senator White stood up and spoke. So I think it is pretty clearly within the transcript. I was not there; I was out of town so I helped build this from the ground up. Item 2: we're not here to discuss the policy of the issue. We are here to discuss why, and I'm just going to call it a fictitious letter appeared on floor of the Senate with only two or three folks and was testified to during the debate on an amendment for a bill, and then that afternoon we get another letter saying 'Oh my god that letter that went out this morning was not under my signature and not my thought and opinion.' I want to keep focus on what we're dealing with here and that's solely what we are dealing with here. We are not going to get into the policy issues, we're not going to try change the debate in the Senate.

Senator Nesbitt: Mr. Chairman?

Senator Apodaca: Yes sir?

Senator Nesbitt: Just for the record, do you acknowledge that the amendment that was offered did not ask to put the money back in on the first year?

Senator Apodaca: That's what the amendment... like I said, I reviewed the amendment, but I wasn't there.

Senator Nesbitt: The amendment speaks for itself.

Senator Apodaca: Then if that is what it says, that is what it says. I don't remember exactly. There's a lot of paper on my desk also. But when I'm on the floor of the senate, I kind of count on when I get something from an agency that it is going to be true.

Senator Nesbitt: Are you speaking to what Senator White did or didn't do?

Senator Apodaca: I'm going by I've read on the transcript of the debate within the Senate. I think it's fairly clear. The reference was made. Further discussion or debate? Senator Brock?

Senator Brock: Thank you Mr. Chairman. {Inaudible} Senator Nesbitt you are talking about original letter used {inaudible} contradict that letter, even when the questions were asked yesterday {Inaudible}. Said they did not know what the major policy was, they might have said that but their body language was a lot different and the way they reacted to that. And then talking about their conduct and the way they did their jobs wasn't {inaudible}. They knew that they could get the process done by 11 o'clock before session—that was the deadline. {Inaudible} If this was such an issue and they knew General Trogden was on maneuvers in Charlotte... that's time you can't make up. That's time you have to wait until he gets back or can contact him for that information. {Inaudible} Beginning with our question if this is a forgery because the timeline is when General Trogden was there and looking at the direct chain of letters, the original letters.... {inaudible} And then when we have a change that was used on the floor during debate, it was contradictory to the original letter. That was something, if there was going to be a change then we should have {inaudible}. Something that is generally agreed upon should not have a direct contradiction from what was in the letter. We look at the, saying there was no {inaudible} under the desk on secretary that changed the letter, there were phone calls and then there was personal, physical visit by the Administration about this letter. They were in the room. And when you have someone who is a high ranking official standing over your head you will change the letter. I think that is it. It's not someone under the desk; it's someone over the desk. I think that's something {inaudible}.... I need this letter by 11 o'clock. Here is a good state worker, doing their job, a very good job, and you have a high ranking official standing over you saying I need this letter by 11 o'clock. Those are questions I think should be answered by the Ethics Commission. I don't think there is criminal behavior but there are ethical questions {inaudible}. When we have documentation from someone that is well respected, General Trogden, {inaudible} that we see this is something that {inaudible} if he says something it's golden, it's true. {Inaudible}.

Senator Apodaca: Senator Blue?

Senator Blue: Yes, I have some concern with wording yesterday {inaudible} pretty serious charges, there is no forgery here. I don't know {inaudible}. This signature that was affixed to this letter was authorized to be affixed.

Senator Apodaca: By the person, General Trogden authorized that letter to be signed?

Senator Blue: Yes sir. He authorized somebody to affix his electronic signature by saying work it out with the Secretary or Deputy Secretary and {inaudible} the process. That is what you need to address if you're concerned about how this came about. He leaves his electronic signature and he leaves this person with the authority to sign his name. He has not said anybody forged his name I hear that term going around and someone or another said this is a criminal act. He authorized his secretary, his assistant, to sign his name to documents when he was out of the office.

Senator Apodaca: That particular document?

Senator Blue: It doesn't have to be that particular document.

Senator Apodaca: That's what we're concerned with, not other documents.

Senator Blue: I'm saying the process is that he authorized {inaudible}. He authorized his Deputy Secretary to finish negotiations and she said she did and she was going to sign it. {Inaudible} And she was going to sign her name for him.

Senator Apodaca: Let me ask you this Senator Blue, while we're talking, why did he issue that other letter that afternoon saying he had not authorized?

Senator Blue: Because it had a mistake on it. I don't know if you have ever rescinded a letter out that had a mistake on it.

Senator Apodaca: No I haven't Senator Blue.

Senator Blue: I don't know what is so unusual about this. It was a mistake. {Inaudible}. That's what happened here. Going on with your course of business, whether in the public or private sector. People make mistakes. And sometimes it says things that they did not intend for it to mean. And they retract their statements. {Inaudible} The other point I think is important is that if it's been referred to the ethics committee, I'm trying to figure out what the ethics inquiry is? Whether the ethics inquiry is against General Trogden for authorizing his signature {inaudible} or whether it's against these ladies in the department, the two witnesses that testified or whether it was aimed at Pryor Gibson or whether it was against Kevin McLaughlin who thoroughly explained how he tried to word it {inaudible}. I'm just puzzled as to what the ethics inquiry is? And whether that inquiry is intended to go after the legislators who make requests of {inaudible} in the critical hours when things are being considered because we have procedures for that to happen too. So whether you are sweeping them up in this since they requested it as well as sweeping any other legislator up who requested information around that period.

Senator Apodaca: Sure, that is why we are trying to hone in on this one letter. We want answers on this one letter. We are not opening it up to the whole problem.

Senator Blue: Are you asking that there be legislative efforts to make an investigation {inaudible} ?

Senator Apodaca: I didn't say that. This is going to the Ethics Commission. And they need to review this and they can refer it where ever they like or they can do away with it.

Senator Blue: We have a separate group of legislative conduct {inaudible}

Senator Apodaca: So you think I, do you want me to send this, do you want me to send Senator White and maybe Rep. Current sent to that legislative ethics {inaudible}?

Senator Blue: I didn't say that. I'm asking you what your intention is.

Senator Apodaca: I think I was pretty clear on my intentions Senator Blue. I want this to go the Ethics Commission for review around the circumstances.

Senator Blue: These five people {inaudible} plus two people from the Governor's office....

Senator Apodaca: And let them see what they believe happened. That's why they're there. Senator Mansfield?

Senator Mansfield: I want to speak to something that Senator Brock was saying. Both of those young ladies came here yesterday, and I'm not saying Senator Newton enjoyed doing it but, three or four times you asked them five or six different ways what did you intend {inaudible}. Everyone in here knew what he was trying to get at. Every time she said, 'No it was me. No. No. No.' So it is your assertion now that those ladies came in here and hide or tried to hide or took the blame for something they didn't do? If you are making that assertion, do you have evidence to that point?

Senator Brock: No, what I was saying was that when the questions were coming in that they are professionals doing their jobs. Professionals do their job. {Inaudible} They knew it was, I don't want to say, unethical but this is something they didn't have the full {inaudible} of walking back in and they didn't know that we were going in to discuss the budget at 11am that morning. Pardon me Mr. Chairman, may I respond?

Senator Apodaca: Yes, please, go ahead.

Senator Brock: I think that was part of it. They were doing their job as a professional. When you are asked to do something {inaudible}. When you have a person that is standing over you saying you need to do something {inaudible} I don't think they did it intentionally. {inaudible} Looking for the change from one letter to another. And why it was done that morning before the budget negotiation and not the morning before when General Trogden was here. When was the call made? That's my question {inaudible} Why are we trying to cover up that issue? Let the Ethics Commission decide {inaudible}.

Senator Apodaca: Go ahead Senator Mansfield. One more time.

Senator Mansfield: I apologize

Senator Apodaca: No problem, please go ahead.

Senator Mansfield: Seems like your entire case Senator Brock is based on the idea that Pryor Gibson coerced these people to do something to force them to do what they did. And then based on what the Chairman said we are going to let the facts lead us to where we need to go there's not a single person that came in here any day we've been in here that's ever said that. Not one. There was ample opportunity in a room of people {inaudible} and I believe had any one of those people even nudged or blinked or said anything like I felt like I was coerced or I felt like I was pushed everyone in this committee would have stood up and brought Pryor back in here. {Inaudible} I felt like everyone in here wanted to touch these ladies and said hey we know you did a good job {inaudible} and in every opportunity they had to say that, they never said that. So that's why I keep going around these same lines that we really

have no evidence of any of the things... I mean it's great {inaudible}, I mean could this have happened, sure. Was it possible that is happened, sure. Do we have any evidence that it happened, none. That's my conflict here that we have no evidence to prove any of these stuff you just said.

Senator Brock: What I'm meaning is that they are professionals, they came in and the request was made, and they know they changed the letter as requested, that is what they said they were guilty of, they changed the letter. That is what I meant. {inaudible} Seeing that there was hesitation or some type of reaction, I believe Mrs. Coward said she took the rest of the day off, and that was something that showed me there was a question in her mind about something that happened.

Senator Mansfield: You don't think she was just mad because she made a mistake? She embarrassed her department. You don't think that's why she did it? I got the feeling....

Senator Apodaca: Okay, that's good... Senator Newton?

Senator Newton: Thank you Mr. Chairman. With all due respect to my two colleagues, I think we're missing the point here. I didn't take this exercise we've done in the Rules Committee to be a trial. I took it to be an inquiry; to develop, open up, let's see what's here. Let's see if there's anything we need to take action on and I think that's exactly what we've done. And I think we've got before us very good, clear star evidence that we should take some action, that we should make a referral to the State Ethics Commission. And I think I find it interest that Senator Blue didn't really mention Pryor Gibson in the question about Senator White and Representative Current and the ladies and General Trogden, and maybe the process is part of the question. But I think it's pretty well developed and pretty well clear at least in my mind and the questions that I got answered, {inaudible} like I said before Pryor Gibson knew exactly what he was doing and Pryor Gibson took advantage of the process that exists probably in multiple agencies to electronically affix a signature. That's what I think. I think, I think that does not strain credibility to think that that is a very likely thing to happen. In my scale of more likely than not, it clearly tilts to more likely that that's what he was doing because he knows what he's doing. And I think that's where ethical questions come into play. And that's why I think the State Ethics Commission ought to try the case and investigate the case professionally because there are other people that ask questions of, there other people that need follow up questions of. That really shouldn't be our role. We've developed it enough, it's time for us to say it's not on us anymore; it's on to somebody else. I'll say this last thing I haven't spoken to Senator White about this so I don't know what he thinks but I've put myself in his shoes. I've got a problem with something going on in the legislature and about to have a debate on the floor, I've got a problem. I need some help from an agency, help me with my problem. I make a request, 'Hey can you guys give me the information that says no that's not really what we need to do.' And then I take that information relying on the signature like of General Trogden and I go on the Senate Floor and I speak to my colleagues and I say, 'Trust me on this, General Trogden says yes.' And I find out later on that that was manipulated and put on there when General Trogden is off on exercises, I'd be mad as hell.

Senator Apodaca: Senate Stein? Last question. No, okay. Senator Blue.

Senator Blue: Mr. President , as legislators individually we could report this to the State Ethics Commission {inaudible} and they then investigate?

Senator Apodaca: Sure, I guess they could. That's how it goes: This is going to come from the committee.

Senator Blue: I just wanted to understand. {inaudible} Thank you.

Senator Apodaca: Okay, we have a motion on the table that we refer this matter to the State Ethics Commission. All in favor say raise your hand. All against. It passes. Okay we are going to take a ten minute break and get cranked up on bills at 10'clock. Thank you.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 278  
Committee Substitute Favorable 4/4/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H278-PCS30666-LB-131

Short Title: Wake/Kinston Local Act.

(Local)

Sponsors:

Referred to:

March 10, 2011

A BILL TO BE ENTITLED

AN ACT TO BROADEN THE EXCEPTION TO THE PUBLIC RECORDS ACT FOR IDENTIFYING INFORMATION OF MINORS PARTICIPATING IN LOCAL GOVERNMENT PARKS AND RECREATION PROGRAMS TO INCLUDE ALL LOCAL GOVERNMENT PROGRAMS AND ALSO TO PROTECT E-MAIL ADDRESSES OF MINORS IN SUCH PROGRAMS IN THE TOWNS OF APEX, CARY, FUQUAY-VARINA, GARNER, HOLLY SPRINGS, KNIGHTDALE, MORRISVILLE, ROLESVILLE, WAKE FOREST, WENDELL, AND ZEBULON, AND THE CITY OF RALEIGH, AND TO AUTHORIZE THE CITY OF KINSTON TO DELEGATE TO THE CITY MANAGER OR AN APPOINTED BOARD THE POWER TO GRANT, RENEW, EXTEND, AMEND, REVOKE, OR SUSPEND A TAXICAB FRANCHISE.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 132-1.12 reads as rewritten:

"§ 132-1.12. **Limited access to identifying information of minors participating in local government parks and recreation programs.**

(a) A public record, as defined by G.S. 132-1, does not include, as to any minor participating in a ~~park or recreation~~ program sponsored by a local government or combination of local governments, any of the following information as to that minor participant: (i) name, (ii) address, (iii) age, (iv) date of birth, (v) telephone number, (vi) the name or address of that minor participant's parent or legal guardian, (vii) e-mail address, or ~~(vii)-(viii)~~ any other identifying information on an application to participate in such program or other records related to that program. Notwithstanding this subsection, the name of a minor who has received a scholarship or other local government-funded award of a financial nature from a local government is a public record.

(b) The county, municipality, and zip code of residence of each participating minor covered by subsection (a) of this section is a public record, with the information listed in subsection (a) of this section redacted.

(c) Nothing in this section makes the information listed in subsection (a) of this section confidential information."

**SECTION 1.(b)** This section applies to the Towns of Apex, Cary, Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon, and the City of Raleigh only.

**SECTION 2.(a)** G.S. 160A-76 reads as rewritten:



\* H 2 7 8 - P C S 3 0 6 6 6 - L B - 1 3 1 \*

1 **"§ 160A-76. Franchises; technical ordinances.**

2 (a) No ordinance making a grant, renewal, extension, or amendment of any franchise  
3 shall be finally adopted until it has been passed at two regular meetings of the council, and no  
4 such grant, renewal, extension, or amendment shall be made otherwise than by ordinance.

5 (a1) Notwithstanding the provisions of subsection (a) of this section, a municipality may  
6 by ordinance delegate to the city manager, or to a board of at least three members appointed by  
7 the city council, the power to grant, renew, extend, amend, revoke, or suspend a taxicab  
8 franchise, in accordance with a taxicab ordinance adopted by the municipality pursuant to  
9 G.S. 160A-304. The city council shall hear any appeal of a decision of the manager or review  
10 board pursuant to this subsection.

11 (b) Any published technical code or any standards or regulations promulgated by any  
12 public agency may be adopted in an ordinance by reference subject to G.S. 143-138(e). A  
13 technical code or set of standards or regulations adopted by reference in a city ordinance shall  
14 have the force of law within the city. Official copies of all technical codes, standards, and  
15 regulations adopted by reference shall be maintained for public inspection in the office of the  
16 city clerk."

17 **SECTION 2.(b)** This section applies only to the City of Kinston.

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



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 334  
Second Edition Engrossed 3/23/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H334-CSRN-49 [v.2]

6/27/2012 9:34:37 PM

Short Title: Sports Agents/DMV Police Authority. (Public)

Sponsors:

Referred to:

March 14, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO STRENGTHEN THE UNIFORM ATHLETE AGENTS ACT, TO AMEND THE  
3 LAWS DEALING WITH LICENSURE OF PERSONS ENGAGING IN THE PRACTICE  
4 OF NATURAL HAIR CARE, AND TO AMEND THE SUPPLEMENTAL LAW  
5 ENFORCEMENT AUTHORITY OF DIVISION OF MOTOR VEHICLE OFFICERS.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Article 9 of Chapter 78C of the General Statutes reads as rewritten:

8 "Article 9.

9 "Uniform Athlete Agents Act.

10 "§ 78C-85. Title.

11 This Article may be cited as the "Uniform Athlete Agents Act".

12 ...  
13 "§ 78C-89. Registration as athlete agent; form; requirements.

14 (a) An individual seeking registration as an athlete agent shall submit an application for  
15 registration to the Secretary of State in a form prescribed by the Secretary of State. The  
16 application must be in the name of an individual and, ~~except as otherwise provided in~~  
17 ~~subsection (b) of this section,~~ and signed or otherwise authenticated by the applicant under  
18 penalty of perjury and must state or contain the following:

19 ...  
20 (b) ~~An individual who has submitted an application for registration or licensure as an~~  
21 ~~athlete agent in another state or who holds a certificate of registration or licensure as an athlete~~  
22 ~~agent in another state may submit a copy of the application and certificate in lieu of submitting~~  
23 ~~an application in the form prescribed pursuant to subsection (a) of this section. The Secretary of~~  
24 ~~State shall accept the application and the certificate from the other state as an application for~~  
25 ~~registration in this State if the application to the other state satisfied all of the following criteria:~~

26 (1) ~~Was submitted in the other state within six months immediately preceding~~  
27 ~~the submission of the application in this State and the applicant certifies that~~  
28 ~~the information contained in the application is current.~~

29 (2) ~~Contains information substantially similar to or more comprehensive than~~  
30 ~~that required in an application submitted in this State.~~

31 (3) ~~Was signed by the applicant under penalty of perjury.~~

32 An applicant for registration as an athlete agent in North Carolina pursuant to G.S. 78C-88  
33 shall submit with the application a satisfactory cash bond or proof of establishment of a trust



1 account in that amount with a licensed and insured bank or savings institution located in the  
2 State of North Carolina. The bond or trust account shall be in favor of the State of North  
3 Carolina. If a trust account is established, the applicant shall include with the application two  
4 copies of the formal notification by the depository that the trust account is established. Any  
5 bond shall be delivered by the Secretary of State to the Treasurer of the State of North Carolina  
6 to be maintained in an interest-bearing special fund. The amount of the cash bond or trust  
7 account shall be:

- 8 (1) Fifty thousand dollars (\$50,000) to be submitted with the applicant's initial  
9 application for registration as an athlete agent in North Carolina;  
10 (2) An additional twenty-five thousand dollars (\$25,000) to be submitted with  
11 the applicant's first renewal application for registration as an athlete agent in  
12 North Carolina; and  
13 (3) An additional twenty-five thousand dollars (\$25,000) to be submitted with  
14 the applicant's second renewal application for registration as an athlete agent  
15 in North Carolina.

16 At no time shall the total cash bond or trust account principal exceed one hundred thousand  
17 dollars (\$100,000) for an individual athlete agent.

18 (b1) The cash bond shall be returnable to the athlete agent six months after the athlete  
19 agent ceases to be a registered North Carolina athlete agent or the Secretary of State has denied  
20 the application for registration or renewal, unless the Secretary of State has been notified of  
21 pending legal action against the agent by an educational institution pursuant to G.S. 78C-100.  
22 The bond or trust account shall be available to satisfy any award or judgment to the educational  
23 institution arising from the athlete agent's violation of this Article. The Treasurer of the State of  
24 North Carolina or the bank or savings institution holding the trust account shall release the  
25 principal and interest accrued on the cash bond or trust account only upon receipt of a court  
26 order directing release or upon certification by the Secretary of State that no notice of pending  
27 legal action has been received pursuant to this section from an educational institution.

28 (c) An application filed under this section is a "public record" within the meaning of  
29 Chapter 132 of the General Statutes.

30 ...  
31 **"§ 78C-94. Required form of contract.**

32 (a) An agency contract must be in a record, signed or otherwise authenticated by the  
33 parties. The student-athlete's signature shall be acknowledged before a notary public.

34 ...  
35 **"§ 78C-97. Required records; waiver of attorney-client privilege.**

36 (a) An athlete agent shall retain the following records for a period of five years:

- 37 (1) The name and address of each individual represented by the athlete agent.  
38 (2) Any agency contract entered into by the athlete agent.  
39 (3) Any ~~direct-cost~~ expenses incurred by the athlete agent, or any person  
40 acting at the direction of the athlete agent, in the recruitment or solicitation  
41 of a student-athlete to enter into an agency contract.  
42 (4) A list of all other athlete agents affiliated with the athlete agent, employees  
43 of the athlete agent, and all persons acting at the direction of the athlete  
44 agent in the recruitment or solicitation of student-athletes to enter into  
45 agency contracts.  
46 (5) A list of all telephone numbers, including records for each number showing  
47 all incoming and outgoing communications, used by the athlete agent, or any  
48 person acting at the direction of the athlete agent, in the recruitment or  
49 solicitation of a student-athlete to enter into an agency contract.  
50 (6) All checkbooks, bank statements, canceled checks, and credit card  
51 statements for all accounts used by the athlete agent, or any person acting at

1 the direction of the athlete agent, in the recruitment or solicitation of a  
2 student-athlete to enter into an agency contract.

3 (7) Originals or copies of all written communications sent by the athlete agent,  
4 or any person acting at the direction of the athlete agent, to a student-athlete  
5 or to any other person to recruit or solicit a student-athlete to enter into an  
6 agency contract.

7 (8) A record of all communications between an athlete agent, or any person  
8 acting at the direction of the athlete agent, with a student-athlete or any  
9 person for the purpose of recruiting or soliciting a student-athlete to enter  
10 into an agency contract.

11 (9) Any other record the Secretary of State by rule prescribes.

12 For purposes of subdivisions (a)(7) and (8) of this subsection, "communication" includes all  
13 oral communication and written communication. Written communications include handwritten  
14 correspondence, printed correspondence, mailings, text messages, and electronic  
15 communications, such as e-mails and communications through social and professional  
16 networking sites.

17 (b) Records required to be retained by subsection (a) of this section are open to  
18 inspection by the Secretary of State during normal business hours. An athlete agent shall  
19 deliver within 10 business days any records required to be retained by subsection (a) of this  
20 section if requested by the Secretary of State or the Secretary's designee.

21 (c) Where a student-athlete enters into an agency contract regulated under this Article,  
22 the student-athlete will be deemed to waive the attorney-client privilege with respect to records  
23 required to be retained by subsection (a) of this section, subject to G.S. 78C-94(f).

24 (d) Within five business days after entering into an agency contract with an individual  
25 who was a student-athlete at an educational institution located in this State, the athlete agent  
26 shall provide a copy of the executed agency contract to the Secretary of State. This requirement  
27 shall only apply to former student-athletes entering into their first agency contract.

28 (e) Within five business days after being contacted by a person, who may have an  
29 expectation of direct gain or profit or reimbursement of expenses from the agency contract,  
30 regarding a student-athlete at an educational institution located in this State, the athlete agent  
31 shall notify the Secretary of State in writing. The notification shall state the person's name, the  
32 person's contact information, the identity of the student-athlete, the method of communication,  
33 and the date of the communication. This requirement shall not apply if the person contacting  
34 the athlete agent is the student-athlete, spouse, parent, sibling, or guardian of the  
35 student-athlete, or employed by the educational institution. Information provided to the  
36 Secretary of State pursuant to this subsection is protected by G.S. 132-1.2(1) from disclosure as  
37 a public record.

38 **"§ 78C-98. Prohibited ~~conduct~~ conduct of athlete agents.**

39 ...  
40 (b) An athlete agent shall not intentionally:

- 41 (1) Initiate contact with a student-athlete unless the athlete agent is registered
- 42 under this Article.
- 43 (2) Refuse or fail to retain or permit inspection of the records required to be
- 44 retained by G.S. 78C-97.
- 45 (3) Fail to register as required by G.S. 78C-88.
- 46 (4) Provide materially false or misleading information in an application for
- 47 registration or renewal of registration.
- 48 (5) Predate or postdate an agency contract.
- 49 (6) Fail to notify a student-athlete before the student-athlete signs or otherwise
- 50 authenticates an agency contract for a particular sport that the signing or

authentication shall make the student-athlete ineligible to participate as a student-athlete in that sport.

(7) Furnish anything of value to a student-athlete before the student-athlete enters into an agency contract.

**"§ 78C-98.1. Prohibited conduct of non-athlete agents.**

(a) A person shall not:

(1) Furnish anything of value to a student-athlete or a student-athlete's spouse, parent, child, sibling, or guardian before the student-athlete enters into an agency contract; and

(2) Advise, influence, guide, recommend, encourage, oppose, or discourage the student-athlete's selection of a specific athlete agent with the expectation of profit, compensation, salary, gratuity, or benefit in any form.

(b) Nothing in this section shall prevent a spouse, parent, sibling, grandparent, or guardian of a student-athlete or an educational institution which the student-athlete attends from furnishing anything of value to the student-athlete.

**"§ 78C-101. Administrative penalty.**

The Secretary of State may assess a civil penalty against ~~an athlete agent~~ any person in an amount not to exceed less than ten thousand dollars (\$10,000) nor more than twenty-five thousand dollars (\$25,000) for a each violation of the provisions of this Article. The Secretary of State may also seek injunctive relief or any other relief available by law to enforce the provisions of this Article."

**SECTION 2.** Section 13 of S.L. 2009-251, as amended by Section 24 of S.L. 2011-26, reads as rewritten:

**"SECTION 13.** Any natural hair care specialist who submits proof to the Board that the natural hair care specialist is actively engaged in the practice of a natural hair care specialist on the effective date of this act, passes an examination conducted by the Board and pays the required fee under G.S. 88B-20 shall be licensed without having to satisfy the requirements of G.S. 88B-10.1, enacted by Section 2 of this act. A cosmetic art shop that practices natural hair care only and that submits proof to the Board that the shop is actively engaged in the practice of natural hair care on the effective date of this act shall have ~~two~~ three years from the date of this act to comply with the requirements of G.S. 88B-14. All persons who do not make application to the Board within ~~two~~ three years of the effective date of this act shall be required to complete all training and examination requirements prescribed by the Board and to otherwise comply with the provisions of Chapter 88B of the General Statutes."

**SECTION 3.** G.S. 20-49.1 reads as rewritten:

**"§ 20-49.1. Supplemental police authority of Division officers.**

(a) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the Commissioner and the officers and inspectors of the Division whom the Commissioner designates have the authority to enforce criminal laws under any of the following circumstances:

(1) When they have probable cause to believe that a person has committed a criminal act in their ~~presence and at the time of the violation they are engaged in the enforcement of laws otherwise within their jurisdiction.~~ presence.

(2) When they are asked to provide temporary assistance by the head of a State or local law enforcement agency or his designee and the request is within the scope of the agency's subject matter jurisdiction.

While acting pursuant to this subsection, the Division officers shall have the same powers vested in law enforcement officers by statute or common law. When acting pursuant to subdivision (2) of this subsection, the Division officers shall not be considered an officer, employee, or agent of the State or local law enforcement agency or designee asking for temporary assistance. Nothing in this section shall be construed to expand the Division officers'

1 authority to initiate or conduct an independent investigation into violations of criminal laws  
2 outside the scope of their subject matter or territorial jurisdiction.

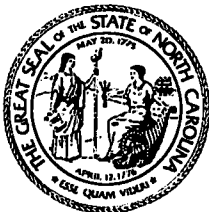
3 (b) In addition to the law enforcement authority granted in G.S. 20-49 or elsewhere, the  
4 Commissioner and the officers and inspectors of the Division whom the Commissioner  
5 designates have the authority ~~to investigate to:~~

6 (1) Investigate drivers license fraud and identity thefts related to drivers license  
7 fraud and to make arrests for these offenses.

8 (2) Perform additional duties as peace officers as may from time to time be  
9 directed by the Governor.

10 (3) Either upon their own motion or at the request of any sheriff or local police  
11 authority, investigate crimes occurring on property, equipment, or materials  
12 owned or leased by the Department of Transportation and to make arrests for  
13 these offenses."

14 **SECTION 4.** Section 1 of this act becomes effective December 1, 2012, and  
15 applies to contracts entered into or offenses committed on or after that date. Sections 2 and 3  
16 of this act are effective when they become law. The remainder of this act is effective when it  
17 becomes law.



## HOUSE BILL 334: Sports Agents/DMV Police Authority

2011-2012 General Assembly

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<b>Committee:</b>	Rules and Operations of the Senate	<b>Date:</b>	June 28, 2012
<b>Introduced by:</b>	Reps. Insko, Bell, Harrison, LaRoque	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to Second Edition H334-CSRN-49		Committee Counsel

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**SUMMARY:** *The PCS for House Bill 334 would strengthen the Uniform Athlete Agents Act, would amend the laws dealing with licensure of persons engaging in the practice of natural hair care, and would amend the supplemental law enforcement authority of Division of Motor Vehicle Officers.*

**BILL ANALYSIS:** Section 1 does all of the following:

- Deletes provisions in G.S. 78C-89(b), so that out-of-state applicants must file a North Carolina application to become an athlete agent and makes a conforming change in 78C-89(a).
- Provides that applicants for registration as an athlete agent must submit with the application a cash bond or proof of a trust account with a licensed and insured bank or savings institution in North Carolina. The bond or trust account must be available to satisfy any award or judgment to the educational institution arising from the athlete agent's violation of this Article. The bond must be delivered to the State Treasurer and held in an interest-bearing special fund. The amount of the bond or trust account must be:
  - \$50,000 to be submitted with the applicant's initial application for registration as an athlete agent in North Carolina.
  - An additional \$25,000 to be submitted with the applicant's first renewal application for registration as an athlete agent.
  - An additional \$25,000 to be submitted with the applicant's second renewal application.
    - At no time shall the total cash bond or trust account principal exceed \$100,000 for an individual athlete agent.
- Provides that the cash bond is returnable to the athlete agent 6 months after the athlete agent ceases to be a registered North Carolina athlete agent or the Secretary of State has denied the application for registration or renewal, unless the Secretary of State has been notified of pending legal action against the agent by an educational institution pursuant to G.S. 78C-100.
- Amends G.S. 78C-94 (setting out requirements for an agency contract) to provide that the student athlete's signature must be acknowledged before a notary public.
- Requires an athlete agent to retain that the following information for 5 years:
  - Records involving expenses incurred by the athlete agent or any person acting at the direction of the athlete agent in recruiting or soliciting a student athlete.
  - A list of all other athlete agents affiliated with the athlete agent, employees of the athlete agent, and all persons acting at the direction of the athlete agent.

# House PCS 334

Page 2

- A list of all telephone numbers, including records for each number showing all incoming and outgoing communications, used by the athlete agent, or any person acting at the direction of the athlete agent
- Check books, bank statements, canceled checks, and credit card statements for all accounts used by the athlete agent, or any person acting at the direction of the athlete agent.
- Originals or copies of all written communications (defined term) sent by the athlete agent, or any person acting at the direction of the athlete agent, to a student athlete or to any other person to recruit or solicit a student athlete.
- A record of all communications between an athlete agent, or any person acting at the direction of the athlete agent, with a student athlete or any person for the purpose of recruiting or soliciting a student athlete.
- Any other record the Secretary of State prescribes by rule.
- Provides that an athlete agent, upon the request of the Secretary of State or her designee, must deliver information which must be maintained by the athlete agent within 10 business days.
- For former student-athletes entering into their first agency contract (if the person was a student-athlete in an educational institution of the State)—The athlete agent must provide a copy of the executed contract to the Secretary of State within 5 business days after entering into the contract.
- Within five business days after being contacted by a person, who may have an expectation of direct gain or profit or reimbursement of expenses from the agency contract, regarding a student athlete at an educational institution located in this State, the athlete agent shall notify the Secretary of State in writing. The notification must state the person's (1) name, (2) contact information, (3) the identity of the student athlete, (4) the method of communication, and (5) the date of the communication.
  - This does not apply if the person contacting the athlete agent is the student athlete, spouse, parent, sibling, or guardian of the student athlete, or employed by the educational institution.
  - Information in this section is prohibited from disclosure as a public record.
- Prohibits the athlete agent from furnishing anything of value to a student athlete before the student athlete enters into an agency contract.
- Creates a new section which provides that a person must not (1) furnish anything of value to a student athlete or a student athlete's spouse, parent, sibling, or guardian before the student athlete enters into an agency contract and (2) advise, influence, guide, recommend, encourage, oppose, or discourage the student athlete's selection of a specific athlete agent with the expectation of profit, compensation, salary, gratuity, or benefit in any form.
  - This section does not prohibit any of the following from giving anything of value to the student athlete: (1) a spouse, (2) parent, (3) sibling, (4) grandparent, (5) guardian, or (6) educational institution which the student-athlete attends.
- Administrative Penalty- Allows the Secretary of State to assess a civil penalty against any person in an amount not less than \$10,000 nor more than \$25,000 for each violation of this Article. Also allows the Secretary to seek injunctive relief to enforce the Article.

# House PCS 334

Page 3

**Section 2** provides that cosmetic art shop that practices natural hair care only and that submits proof to the Board that the shop is actively engaged in the practice of natural hair care shall have an additional year to comply with licensure requirements.

**Section 3** expands the authority of officers and inspectors of the DMV to include performing additional duties as peace officers when directed by the Governor and to investigate crimes and make arrests for crimes occurring on property owned or leased by DOT.

**EFFECTIVE DATE:** Section 1 of the act becomes effective December 1, 2012, and applies to contracts entered into or offenses committed on or after that date. Sections 2 and 3 are effective when they become law. The remainder of this act is effective when it becomes law.

**BACKGROUND:** Section 1 of the bill is identical to Senate Bill 224-Second Edition (Professional Sports Agents/College Athletes) which passed the Senate on June 8, 2011.

*H334-SMRN-103(CSRN-49) v2*



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 320\*  
PROPOSED SENATE COMMITTEE SUBSTITUTE H320-CSMD-34 [v.1]

6/28/2012 9:29:24 AM

Short Title: Water Resources Flexibility.

(Public)

Sponsors:

Referred to:

March 14, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FLEXIBILITY FOR CERTAIN WATER RESOURCES PROJECTS

The General Assembly of North Carolina enacts:

**SECTION 1.** If House Bill 950, 2012 Regular Session becomes law, then notwithstanding any other provision of law, the funds appropriated for the Carolina Beach Renourishment Project in Section 26.2(a) of that act may be allocated to and used for the Carolina Beach Renourishment Project and the Kure Beach Renourishment Project. These funds shall be allocated between these two projects in amounts determined by the New Hanover Board of County Commissioners.

**SECTION 2.** This act becomes effective July 1, 2012.



\* H 3 2 0 - C S M D - 3 4 - V - 1 \*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 1173  
Second Edition Engrossed 6/21/12

Short Title: Absconding Prob. Violators Forfeit Benefits. (Public)

Sponsors: Representatives LaRoque and Saine (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Judiciary Subcommittee C, if favorable, Finance.

May 30, 2012

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A PROBATION VIOLATOR WHO ABSCONDS OR  
2 OTHERWISE WILLFULLY AVOIDS ARREST AFTER THE ISSUANCE OF A  
3 WARRANT SHALL FORFEIT ANY PUBLIC ASSISTANCE BENEFITS UNTIL  
4 SURRENDERING TO THE COURT.  
5

6 The General Assembly of North Carolina enacts:

7 SECTION 1. G.S. 15A-1345 is amended by adding a new subsection to read:

8 "(a1) Suspension of Public Assistance Benefits for Probation Violators Who Avoid  
9 Arrest. – The court may order the suspension of any public assistance benefits that are being  
10 received by a probationer for whom the court has issued an order for arrest for violation of the  
11 conditions of probation but who is absconding or otherwise willfully avoiding arrest. The  
12 suspension of benefits shall continue until such time as the probationer surrenders to or is  
13 otherwise brought under the jurisdiction of the court. For purposes of this section, the term  
14 "public assistance benefits" includes unemployment benefits, Medicaid or other medical  
15 assistance benefits, Work First Family Assistance, food and nutrition benefits, any other  
16 programs of public assistance under Article 2 of Chapter 108A of the General Statutes, and any  
17 other financial assistance of any kind being paid to the probationer from State or federal funds.  
18 Nothing in this subsection shall be construed to suspend, or in any way affect the eligibility for,  
19 any public assistance benefits that are being received by a family member of a probation  
20 violationer."

21 SECTION 2. The Division of Social Services and the Division of Medical  
22 Assistance of the Department of Health and Human Services and the Division of Employment  
23 Security of the Department of Commerce shall adopt rules for the provision of assistance by  
24 those divisions to local law enforcement in the enforcement of this act.

25 SECTION 3. Section 1 of this act becomes effective October 1, 2012. The  
26 remainder of this act is effective when it becomes law.





NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
House Bill 1173

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

H1173-ARN-32 [v.1]

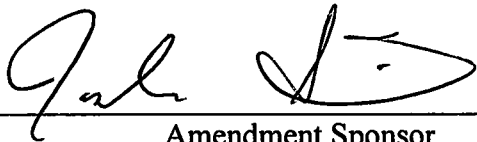
Page 1 of 1

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

Date \_\_\_\_\_, 2012

Senator Stein

1 moves to amend the bill on page 1, line 19, by deleting the phrase "received by" and  
2 substituting the phrase "received by or for the benefit of".  
3  
4

SIGNED   
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_



\* H 1 1 7 3 - A R N - 3 2 - V - 1 \*

**VISITOR REGISTRATION SHEET**

**Rules and Operations of the Senate**  
**Committee Name**

Date  
June 28, 2012

**VISITORS: PLEASE SIGN IN BELOW**  
**AND RETURN TO COMMITTEE CLERK,**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Shed Books	Wood and Smith
<del>Spin</del>	<del>OKS</del>
Cathy Greene RN	Nurse of the Day
Carl Dean	OSP
Kelley Nicholson	UNC Hc
JOE LANIER	NELSON MULLINS
Gary Szymanski	Nc Chamber
Dave Foster	CCI
Ashleigh Thornton	MWC
Rhonda O'Brien	PFFPNC
Penn Broghill	WCSR
David Anders	PFFPK
Steve Matting	The Poly Group
David McHown	NCR
Tom Hearn	WMI

AB Sules Federal Connect  
 JACK Cozart NS  
 Jackson Cozart NS

# VISITOR REGISTRATION SHEET

## Rules and Operations of the Senate

Committee Name

Date

June 28, 2012

**VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Jim Tridoni	NCDOT
Daniel Amburn	NCRMA
Mike Cashion	NC Checkmate
R. My	WPTT-NC News Network
Say Joiner	Journalist
Quinn	Misc
Patience Watt	NECASA
Rodney Maddox	NC Secretary of State Office
Haley Hughes	NCSOS
John McMillan	MF & S
Andrew Wood	A. Wood & Assoc
Maen Stach	GSK
Dana Simpson	SA
Phil Esley	Bruce

# VISITOR REGISTRATION SHEET

## Rules and Operations of the Senate Committee Name

Date

June 28, 2012

**VISITORS: PLEASE SIGN IN BELOW**  
**AND RETURN TO COMMITTEE CLERK,**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Melanie Sou	DCR
Anne Muthu	DCR
Bonnie Taylor	DMV
Chuck Stone	SEALC
John Eick	NCACC
Latoria Strickland	NCACC
Lisa Martin	NC HBA
Betty West	NCSBE
Clare FitzGerald	DENR
Susanna Hailey	KWL Gates
Elise Quick	Trounhal Scales
Amanda Dixon	Sen. Hise's Office
Shelly Carver	Sen. Hise
Erin Wynia	NCLM
Bobby Lewis	NC DOT

# VISITOR REGISTRATION SHEET

## Rules and Operations of the Senate

Committee Name

Date

June 28, 2012

**VISITORS: PLEASE SIGN IN BELOW  
AND RETURN TO COMMITTEE CLERK.**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
BERRY Jenkins	CAROLINDS AGC
Julie W	NCMNC
Henry Jones	Jordan Price
John P. ...	NCDAA
May Mullen Abill	SELC
Saul Sands	un
Elizabeth ...	Prox Per
Susanna Davis	Gov Office
Tom Bean	EDF
W. McQuell	NCICU
Fred Bone	Bone! Asso.
Kevin Rust	Underwater Black
Joy ...	NCDAA
Butch Gunnells	NC Bev
DAVID BARNES	PS

MINUTES

RULES AND OPERATIONS OF THE SENATE

June 28, 2012


The Committee on Rules and Operations of the Senate met on June 28, 2012 at 1:00 p.m. in room 1027 of the Legislative Building. All members of the committee were present. Senator Apodaca presided.

**HOUSE BILL – 1073 – MODIFY UNCHC’s BOARD** – Andrew Tripp, Rules Committee Attorney, explained the bill. Senator Mansfield moved for a favorable report. Motion carried. Patsy Pearson, Research Staff, answered question from the Committee members.

**HOUSE BILL – 1170 – PENDER COUNTY ABC LAW** – Senator Rabon explained the bill. Senator Mansfield moved for a favorable report. Motion carried.

**HOUSE BILL - 555 – 2012 PPT’s APPOINTMENTS BILL** – Senator Garrou moved adoption of the Proposed Committee Substitute. Senator Brock moved for a favorable report to the PCS. Motion carried.

**SENATE RESOLUTION – 957 – A SENATE RESOLUTION SPECIFICALLY DISAPPROVING EXECUTIVE ORDER NO. 85, ISSUED MARCH 25, 2011, UNDER PROVISIONS OF THE NORTH CAROLINA CONSTITUTION GRANTING EITHER HOUSE OF THE GENERAL ASSEMBLY TO DO SO, AS THE GENERAL ASSEMBLY HAS ACCOMPLISHED ADMINISTRATIVE REORGANIZATIONS BY LEGISLATION** - Andrew Tripp, Rules Committee Attorney, explained the resolution rejecting EO 85. Senator Brock moved to adopt the Resolution. Motion carried.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn Gooden, Committee Assistant



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 1073  
Committee Substitute Favorable 6/27/12

Short Title: Modify UNCHCS Board.

(Public)

Sponsors:

Referred to:

May 23, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE COMPOSITION AND APPOINTMENT PROCESS FOR  
3 MEMBERS OF THE BOARD OF DIRECTORS OF THE UNIVERSITY OF NORTH  
4 CAROLINA HEALTH CARE SYSTEM.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 116-37(b) reads as rewritten:

7 "(b) Board of Directors. – ~~There is hereby established a~~ The board of directors of the  
8 University of North Carolina Health Care System, effective November 1, 1998. System is  
9 hereby restructured effective November 1, 2012.

10 (1) The board of directors shall be composed of 24 members as follows:

11 a. ~~A minimum of six~~ Eight members ex officio ~~of said board~~ shall be  
12 the President of The University of North Carolina (or the President's  
13 designee); the Chief Executive Officer of the University of North  
14 Carolina Health Care System; the Chancellor of the University of  
15 North Carolina at Chapel Hill and one additional administrative  
16 officer of the University of North Carolina at Chapel Hill designated  
17 by the Chancellor; the President of the University of North Carolina  
18 Hospitals; the President of the UNC Faculty Physicians; and two  
19 members of the faculty of the School of Medicine of the University  
20 of North Carolina at Chapel Hill designated by the Dean of the  
21 School of Medicine; provided, that if not such a member ex officio  
22 by virtue of holding one or more of the offices aforementioned,  
23 additional ex officio memberships shall be held by the President of  
24 the University of North Carolina Hospitals at Chapel Hill, the faculty  
25 member responsible for leading the clinical patient care programs of  
26 the School of Medicine, and Medicine. If the Dean of the School of  
27 Medicine of the University of North Carolina at Chapel Hill  
28 does not also hold one of the positions designated as an ex officio  
29 member of the board, the Dean shall serve in one of the positions  
30 reserved for a member of the faculty.

31 b. ~~No less than nine and no more than 21~~ Sixteen members at large,  
32 ~~which number shall be determined by the board of directors, large~~  
33 shall be appointed for four-year terms, commencing on November 1  
34 of the year of appointment; ~~provided, that the initial appointment.~~  
35 Twelve of the members at large shall be appointed by the Board of  
36 Governors after consultation with the President of The University of



1 North Carolina. Four of the members at large shall be appointed by  
2 the board of directors.

3 c. The initial class of at-large members shall ~~include~~ be composed of  
4 the following individuals:

5 1. ~~the~~ The persons who hold the appointed memberships on the  
6 board of directors of the University of North Carolina  
7 Hospitals at Chapel Hill incumbent as of October 31, 1998,  
8 directors as of October 31, 2012, and whose terms do not  
9 expire on that date. The ~~with their~~ terms of membership ~~on~~  
10 the board of directors of the University of North Carolina  
11 Health Care System to for these at-large members will expire  
12 on the last day of October of the year in which their term as a  
13 member of the board of directors of the University of North  
14 Carolina Hospitals at Chapel Hill would have expired.

15 2. Three persons appointed by the Board of Governors after  
16 consultation with the President of The University of North  
17 Carolina whose terms will commence on November 1, 2012,  
18 and will expire on October 31, 2016.

19 3. One person appointed by the board of directors whose term  
20 will commence on November 1, 2012, and will expire on  
21 October 31, 2016.

22 The Board of Governors shall appoint successor at-large  
23 members for those members whose terms end on October 31, 2013,  
24 October 31, 2014, and four of the five members whose terms end on  
25 October 31, 2016. The board of directors shall appoint successor  
26 at-large members for those members whose terms end on October 31,  
27 2015, and one of the five members whose terms end on October 31,  
28 2016.

29 d. All ~~Vacant~~ at-large positions shall be filled by the appointment of  
30 persons from the business and professional public at large who have  
31 special competence in business management, hospital administration,  
32 health care delivery, or medical practice or who otherwise have  
33 demonstrated dedication to the improvement of health care in North  
34 Carolina, and who are neither members of the Board of Governors,  
35 members of the board of trustees of a constituent institution of The  
36 University of North Carolina, nor officers or employees of the State.  
37 ~~Members shall be appointed by the President of the University, and~~  
38 ~~ratified by the Board of Governors, from among a slate of~~  
39 ~~nominations made by the board of directors of the University of~~  
40 ~~North Carolina Health Care System. No member may be appointed~~  
41 ~~to more than two full four-year terms in succession; provided, that~~  
42 ~~persons holding appointed memberships on November 1, 1998, by~~  
43 ~~virtue of their previous membership on the board of directors of the~~  
44 ~~University of North Carolina Hospitals at Chapel Hill, shall not be~~  
45 ~~eligible, for a period of one year following expiration of their term, to~~  
46 ~~be reappointed to the board of directors of the University of North~~  
47 ~~Carolina Health Care System.~~ succession, including members serving  
48 as of June 30, 2012. Any vacancy in an unexpired term shall be filled  
49 by an appointment made by the President, and ratified by the Board  
50 of Governors, upon the nomination of the board of directors, shall be

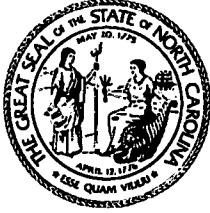
1                    filled by the appointing authority for the balance of the term  
2                    remaining.

3                    (2)    The board of directors, with each ex officio and at-large member having a  
4                    vote, shall elect a chairman only from among the at-large members, for a  
5                    term of two years. Notwithstanding the foregoing limitation, the Chancellor  
6                    of the University of North Carolina at Chapel Hill may serve as Chairman.  
7                    No person shall be eligible to serve as chairman for more than three terms in  
8                    succession.

9                    (3)    The board of directors of the University of North Carolina Health Care  
10                    System shall meet at least every 60 days and may hold special meetings at  
11                    any time and place within the State at the call of the chairman. Board  
12                    members, other than ex officio members, shall receive the same per diem  
13                    and reimbursement for travel expenses as members of the State boards and  
14                    commissions generally.

15                    (4)    In meeting the patient-care, educational, research, and public-service goals  
16                    of the University of North Carolina Health Care System, the board of  
17                    directors is authorized to exercise such authority and responsibility and  
18                    adopt such policies, rules, and regulations as it deems necessary and  
19                    appropriate, not inconsistent with the provisions of this section or the  
20                    policies of the Board of Governors or, to the extent the board's actions affect  
21                    employees of the University of North Carolina at Chapel Hill, the policies of  
22                    the University of North Carolina at Chapel Hill. The board may authorize  
23                    any component of the University of North Carolina Health Care System,  
24                    including the University of North Carolina Hospitals at Chapel Hill, to  
25                    contract in its individual capacity, subject to such policies and procedures as  
26                    the board of directors may direct. The board of directors may enter into  
27                    formal agreements with the University of North Carolina at Chapel Hill with  
28                    respect to the provision of clinical experience for students and for the  
29                    provision of maintenance and supporting services. The board's action on  
30                    matters within its jurisdiction is final, except that appeals may be made, in  
31                    writing, to the Board of Governors with a copy of the appeal to the  
32                    Chancellor of the University of North Carolina at Chapel Hill. The board of  
33                    directors shall keep the Board of Governors and the board of trustees of the  
34                    University of North Carolina at Chapel Hill fully informed about health care  
35                    policy and recommend changes necessary to maintain adequate health care  
36                    delivery, education, and research for improvement of the health of the  
37                    citizens of North Carolina."

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



# HOUSE BILL 1073: Modify UNCHCS Board

2011-2012 General Assembly

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<b>Committee:</b>		<b>Date:</b>	June 28, 2012
<b>Introduced by:</b>	Rep. Moffitt	<b>Prepared by:</b>	Patsy Pierce
<b>Analysis of:</b>	Second Edition		Legislative Analyst

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**SUMMARY:** *The Second Edition of House Bill 1073 would restructure the board of directors of the University of North Carolina Health Care System, effective November 1, 2012, specifying the number of ex officio and at large members. The President of the University of North Carolina Hospitals, the President of the UNC Faculty Physicians, and the Dean of the School of Medicine at UNC-CH would be added as ex officio members. The UNC Board of Governors, in consultation with the President of the UNC system, would appoint the majority of the members at large.*

**CURRENT LAW:** G.S. 116-37(b) establishes a board of directors as of November 1, 1998 for the University of North Carolina Health Care System composed of:

A. Ex Officio Members: A minimum of six ex officio members that include the President (or designee) of The University of North Carolina (UNC) system, the CEO of the UNC Health Care System, the Chancellor of the University of North Carolina at Chapel Hill (UNC-CH), an additional UNC-CH administrative officer, two faculty members of the School of Medicine at UNC-CH (Medical School) as designated by the Dean of the Medical School, clinical faculty in the Medical School, and additional ex officio members as needed.

3. Members at large: A minimum of nine, and maximum of 21, members at large are appointed for four-year terms, and represent the original board of directors of the UNC Hospitals at Chapel Hill, and persons from the business and professional public at large with competence in health care delivery. Members at large are (i) non-State employees or members of the UNC Board of Governors, (ii) appointed by the President of UNC system, and (iii) ratified by the UNC Board of Governors. Members at large cannot be appointed to more than two full four-year terms in succession.

The board of directors (i) elects a chairman from the members at large for a two year term, with a three successive term limit. The Chancellor of UNC-CH may serve as the chairman; (ii) meets at least every 60 days, may hold special meetings, and receive State per diem and travel reimbursement; and, (iii) is authorized to adopt policies, rules and regulations to meet the patient-care, educational, research, and public service goals of the University of North Carolina Health Care System.

**BILL ANALYSIS:** The Second Edition of House Bill 1073 would restructure the board of directors of the University of North Carolina Health Care System, effective November 1, 2012, composed of 24 members as follows:

A. Ex Officio members: Eight ex officio members including the same individuals in current law and, in addition, the President of the University of North Carolina Hospitals, the President of the UNC Faculty Physicians, and the Dean of the School of Medicine at UNC-CH.

B. Members at large: Sixteen members, twelve appointed by the UNC Board of Governors after consultation with the President of the UNC system, and four appointed by the board of directors.

The initial class of the at-large members of the restructured board of directors would be composed of current board members, three persons appointed by the UNC Board of Governors after consultation with the President of the UNC system, and one person appointed by the board of directors. Terms for the initial class and appointment dates for successive board members are specified.

# House Bill 1073

*Page 2*

House Bill 1073 does not change the other aspects of current law regarding the make-up and duties of the board of directors of the University of North Carolina Health Care System.

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

**BACKGROUND:** This version of House Bill 1073 is consistent with recommendations of the House Select Committee on State-Owned Assets.

*H1073-SMTL-69(e2) v1*

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

1

HOUSE BILL 1170

Short Title: Pender County ABC Law. (Local)

Sponsors: Representative Justice (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Commerce and Job Development Subcommittee on Alcoholic Beverage Control.

May 30, 2012

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PROCESS BY WHICH MEMBERS OF THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL ARE SELECTED; TO REMOVE THE REQUIREMENT THAT THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL LOCATE ONE OR MORE STORES IN THE TOWNS OF BURGAW AND ATKINSON; AND TO AMEND THE DISTRIBUTION OF CERTAIN NET PROFITS FROM THE PENDER COUNTY BOARD OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4(c) of Chapter 50 of the 1963 Session Laws, as rewritten by Section 1 of Chapter 778 of the 1963 Session Laws, reads as rewritten:

"There shall be created a Pender County Board of Alcoholic Control to consist of five members. The Chairman shall be G. C. Edmonds, who shall serve as such and as a board member until July 1, 1965. The four other members shall be selected by a majority vote in a joint meeting of the Board of County Commissioners of Pender County, the Pender County Board of Health, the Pender County Board of Education, and the Pender County Board of Public Welfare, and each member present shall have only one vote notwithstanding the fact that there may be instances in which some members are members of another board. the Pender County Board of Commissioners. Two of said four Board members shall be chosen to serve for a period of three (3) years and two of said four members shall be chosen to serve for a period of two (2) years. All terms shall begin with the date of appointment and successors in office shall serve for a period of three (3) years, and be appointed in the same manner as herein provided. Upon the expiration of the term of G. C. Edmonds, his successor shall be chosen by the same selecting body, and in the same manner, as the four other members of the Board, and his successor shall serve for a three-year term. Vacancies in the Board shall be filled for the unexpired term by the aforesaid selecting body. The members of said Board shall be well known for their good character, ability and business judgment. Insofar as the provisions of this Section are inconsistent with the provisions of G. S. 18-41, the provisions of this Section are controlling in Pender County."

SECTION 2. Section 5 of Chapter 50 of the 1963 Session Laws reads as rewritten:

"Sec. 5. The Pender County Board of Alcoholic Control shall have all the powers and duties prescribed for County Boards of Alcoholic Control by G. S. 18-45, and shall be subject to the powers and authority of the State Board of Alcoholic Control to the same extent as are County Boards of Alcoholic Control set forth in G. S. 18-39. The Pender County Board of Alcoholic Control shall be subject to the provisions of Article 3, Chapter 18, of the General Statutes except to the extent that such provisions may be in conflict with the terms of this Act.



1 Wherever the word "County" Board of Alcoholic Control appears in said Article, it shall apply  
2 to and include the Pender County Board of Alcoholic Control; provided, however, that the  
3 board ~~shall locate one or more stores in the towns of Burgaw and Atkinson; provided further~~  
4 ~~that the board may locate one or more stores on Topsail Island, or any other location it may~~  
5 ~~deem advisable may locate, open, and close ABC stores within its jurisdiction pursuant to the~~  
6 provisions of G.S. 18B-801."

7 **SECTION 3.** Section 6 of Chapter 50 of the 1963 Session Laws, as rewritten by  
8 Section 1 of the 1973 Session Laws, reads as rewritten:

9 "Sec. 6. After deducting fifteen percent (15%) of total net profits to be expended for law  
10 enforcement and after providing for expenditure of a sum not less than two ~~per cent~~percent  
11 (2%) nor more than five ~~per cent~~percent (5%) of total future net profits, and current funds, to  
12 provide facilities, material for the care, education, rehabilitation, treatment of alcoholic, mental  
13 patients, for education of the general public on the excessive use of alcoholic beverages, or  
14 distribution to various Pender County Rescue Squads, at intervals and in amounts determined  
15 by the Pender County Board of Alcoholic Control, and after further payment to the general  
16 fund of Pender County of five ~~per cent~~percent (5%) of total net profits for use in mosquito  
17 control, the remaining total net profits from Alcoholic Beverage Control Stores shall, ~~on a~~  
18 ~~quarterly basis, pursuant to G.S. 18B-805(e), be paid over on a quarterly basis as follows:~~  
19 ~~Seventy five per cent (75%) sixty five percent (65%) to the general fund of Pender County, and~~  
20 ~~the remaining twenty five per cent (25%) to the respective municipalities in which Alcoholic~~  
21 ~~Beverage Control Stores are located, based on gross sales of each respective store. thirty five~~  
22 percent (35%) shall be distributed as follows:

23 (1) Seventy percent (70%) of the remaining thirty-five percent (35%) shall be  
24 distributed to the Town of Burgaw and the Town of Surf City as follows:

25 a. Forty percent (40%) of the seventy percent (70%) to the Town of  
26 Burgaw.

27 b. Sixty percent (60%) of the seventy percent (70%) to the Town of  
28 Surf City.

29 (2) Thirty percent (30%) of the remaining thirty-five percent (35%) shall be  
30 distributed to each of the following municipalities according to each  
31 municipality's percentage of population within Pender County, as  
32 determined by the last decennial federal census:

33 a. Town of Atkinson.

34 b. Village of St. Helena.

35 c. Town of Topsail Beach.

36 d. Town of Watha."

37 **SECTION 4.** This act becomes effective July 1, 2012.

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 555  
Corrected Copy 4/4/11  
PROPOSED SENATE COMMITTEE SUBSTITUTE H555-PCS30667-LG-44

Short Title: 2012 PPT's Appointments Bill.

(Public)

Sponsors:

Referred to:

March 31, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE  
3 RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND  
4 TO MAKE TECHNICAL CORRECTIONS TO PREVIOUS APPOINTMENTS.

5 Whereas, G.S. 120-121 authorizes the General Assembly to make certain  
6 appointments to public offices upon the recommendation of the President Pro Tempore of the  
7 Senate; and

8 Whereas, the President Pro Tempore has made recommendations; Now, therefore,  
9 The General Assembly of North Carolina enacts:

10  
11 PART I. PRESIDENT PRO TEMPORE'S APPOINTMENTS

12 SECTION 1.1. Effective January 1, 2013, Bobby Bottoms of Stokes County and  
13 Laura Sykora of Wake County are appointed to the 911 Board for terms expiring on December  
14 31, 2017.

15 SECTION 1.2. Andrew Kingoff of New Hanover County is appointed to the  
16 Acupuncture Licensing Board for a term expiring on June 30, 2015.

17 SECTION 1.3. Effective October 1, 2012, Charles E. Evans of Cumberland  
18 County is appointed to the African-American Heritage Commission for a term expiring on  
19 September 30, 2015.

20 SECTION 1.4. Patricia Todd of Mecklenburg County is appointed to the  
21 Commission for Mental Health, Developmental Disabilities and Substance Abuse Services for  
22 a term expiring on June 30, 2015.

23 SECTION 1.5. Effective September 1, 2012, Christine Mumma of Durham County  
24 is appointed to the Commission on Indigent Defense Services for a term expiring on August 31,  
25 2016.

26 SECTION 1.6. Joshua Fulton of New Hanover County is appointed to the  
27 Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June  
28 30, 2015.

29 SECTION 1.7.(a) Effective immediately, Marjorie Menestres of Wake County is  
30 appointed to the Domestic Violence Commission for a term expiring on August 31, 2013.

31 SECTION 1.7.(b) Effective September 1, 2012, Dudley Watts, Jr., of Forsyth  
32 County, Alexander Nicely of New Hanover County, Susan Bray of Guilford County, Armor





1 Pyrtle of Rockingham County, and Senator Warren Daniel of Burke County are appointed to  
2 the Domestic Violence Commission for terms expiring on August 31, 2014.

3 **SECTION 1.8.** Donnie Loftis of Gaston County is appointed to the Interstate  
4 Commission on Educational Opportunity for Military Children State Council to serve at the  
5 pleasure of the appointing authority.

6 **SECTION 1.9.** Senator Louis Pate of Wayne County is appointed to the  
7 Justus-Warren Heart Disease and Stroke Prevention Task Force for a term expiring on June 30,  
8 2013, to fill the unexpired term of the Honorable James Forrester.

9 **SECTION 1.10.** Effective January 1, 2012, Lloyd H. Jordan, Jr., of Pitt County,  
10 Robin Surane of Mecklenburg County, Kenneth Burkel of Forsyth County, and Arthur Totillo  
11 of Person County are appointed to the License to Give Trust Fund Commission for terms  
12 expiring on December 31, 2013.

13 **SECTION 1.11.(a)** Gerald Warren of Sampson County is appointed to the North  
14 Carolina Agricultural Finance Authority for a term expiring on June 30, 2015.

15 **SECTION 1.11.(b)** Ed Emory of Duplin County is appointed to the North Carolina  
16 Agricultural Finance Authority for a term expiring on June 30, 2014.

17 **SECTION 1.12.** The Honorable Fern Shubert of Union County is appointed to the  
18 North Carolina Appraisal Board for a term expiring on June 30, 2015.

19 **SECTION 1.13.** Jennifer Sullivan of Cumberland County is appointed to the North  
20 Carolina Arboretum Board of Directors for a term expiring on June 30, 2016.

21 **SECTION 1.14.** Paula Neal of Wake County and Janah Fletcher of Guilford  
22 County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms  
23 expiring on June 30, 2015.

24 **SECTION 1.15.** Kathleen Sodoma of Wayne County is appointed to the North  
25 Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2015.

26 **SECTION 1.16.** Effective March 1, 2012, Vincent DeBenedetto of Wake County  
27 is appointed to the North Carolina Capital Facilities Finance Agency Board of Directors for a  
28 term expiring on March 1, 2016.

29 **SECTION 1.17.** Michael Womble of Mitchell County and Aaron L. Fleming of  
30 Wake County are appointed to the North Carolina Center for the Advancement of Teaching  
31 Board of Trustees for terms expiring on June 30, 2016.

32 **SECTION 1.18.(a)** William Walton, III, of Pitt County and Elizabeth Gilleland of  
33 Wake County are appointed to the North Carolina Child Care Commission for terms expiring  
34 on June 30, 2014.

35 **SECTION 1.18.(b)** April Duvall of Macon County is appointed to the North  
36 Carolina Child Care Commission for a term expiring on June 30, 2013, to fill the unexpired  
37 term of Julie Cardwell.

38 **SECTION 1.19.(a)** Jane Dolan of Wake County is appointed to the North Carolina  
39 Interpreter and Transliterator Licensing Board for a term expiring on June 30, 2013.

40 **SECTION 1.19.(b)** Ashley Benton of Wake County and Wayne Giese of Burke  
41 County are appointed to the North Carolina Interpreter and Transliterator Licensing Board for  
42 terms expiring on June 30, 2015.

43 **SECTION 1.20.** Effective October 1, 2012, Frank Snow of Cumberland County is  
44 appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on  
45 September 30, 2015.

46 **SECTION 1.21.** Effective January 1, 2013, Kelly Reid Barbee of Onslow County  
47 and Philip J. Lanier of Forsyth County are appointed to the North Carolina Locksmith  
48 Licensing Board for terms expiring on December 31, 2015.

49 **SECTION 1.22.** Effective October 1, 2012, the Honorable Hugh Webster of  
50 Alamance County is appointed to the North Carolina Manufactured Housing Board for a term  
51 expiring on September 30, 2015.

1           **SECTION 1.23.(a)** If both Senate Bill 810 and 820, 2011 Regular Session, become  
2 law, then the following shall be appointed to the North Carolina Mining and Energy  
3 Commission: Ivan Gilmore of Beaufort County (Category 10) for a term expiring on June 30,  
4 2014, James Womack of Lee County (Category 9) for a term expiring on June 30, 2015,  
5 Vikram Rao of Orange County (Category 11) and George Howard of Wake County (Category  
6 8) for terms expiring on June 30, 2016.

7           **SECTION 1.23.(b)** If Senate Bill 820, 2011 Regular Session, becomes law and  
8 Senate Bill 810, 2011 Regular Session, does not become law, then the following shall be  
9 appointed to the North Carolina Mining and Energy Commission: James Womack of Lee  
10 County (Category 9) for a term expiring on June 30, 2015, and Vikram Rao of Orange County  
11 (Category 11) and George Howard of Wake County (Category 8) for terms expiring on June  
12 30, 2016.

13           **SECTION 1.24.** Westin Bordeaux of New Hanover County and Cynthia K. Tart of  
14 Brunswick County are appointed to the North Carolina Parks and Recreation Authority for  
15 terms expiring on July 1, 2015.

16           **SECTION 1.25.** Effective November 1, 2012, Edward Bratzke of Wake County is  
17 appointed to the North Carolina Respiratory Care Board for a term expiring on October 31,  
18 2015.

19           **SECTION 1.26.** Effective April 1, 2012, Edward Ashby III of Surry County is  
20 appointed to the North Carolina State Banking Commission for a term expiring on March 31,  
21 2016.

22           **SECTION 1.27.** Benjamin Tuggle of Randolph County is appointed to the North  
23 Carolina State Building Commission for a term expiring on June 30, 2015.

24           **SECTION 1.28.(a)** Effective September 30, 2012, Barry Dodson of Rockingham  
25 County is appointed to the North Carolina State Lottery Commission for a term expiring on  
26 August 31, 2013.

27           **SECTION 1.28.(b)** Effective September 30, 2012, Jody Tyson of Greene County is  
28 appointed to the North Carolina State Lottery Commission for a term expiring on August 31,  
29 2017.

30           **SECTION 1.29.** Patrick Joyce of Carteret County is appointed to the North  
31 Carolina State Ports Authority for a term expiring on June 30, 2014.

32           **SECTION 1.30.** Angela Upchurch of Gaston County is appointed to the North  
33 Carolina Teaching Fellows Commission for a term expiring on July 1, 2015.

34           **SECTION 1.31.** Gary Spence of Mecklenburg County is appointed to the North  
35 Carolina Wildlife Resources Commission for a term expiring on June 30, 2013, to fill the  
36 unexpired term of Doc J. Thurston.

37           **SECTION 1.32.** John M. Tayloe of Bertie County, Richard Halbert of Chowan  
38 County, and William J. Moore, Jr., of Chowan County are appointed to the North Carolina's  
39 Northeast Commission for terms expiring on June 30, 2014.

40           **SECTION 1.33.** Eric Weaver, Sr., of Wake County, William MacRae of Wake  
41 County, and Richard A. Epley of Burke County are appointed to the Private Protective Services  
42 Board for terms expiring on June 30, 2015.

43           **SECTION 1.34.** Heidi Leo of Dare County, Zenas E. Fearing, Jr., of Dare County,  
44 and Edward Brent Lane of Wake County are appointed to the Roanoke Island Commission for  
45 terms expiring on June 30, 2014.

46           **SECTION 1.35.** Victor L. Riley of Mecklenburg County is appointed to the State  
47 Board of Proprietary Schools for a term expiring on December 30, 2014, to fill the unexpired  
48 term of Thom Eastwood.

49           **SECTION 1.36.** Effective January 1, 2013, Les Merritt, Jr., of Wake County is  
50 appointed to the State Ethics Commission for a term expiring on December 31, 2016.

1           **SECTION 1.37.(a)** Effective January 1, 2013, Hugh B. Campbell, III, of Surry  
2 County is appointed to the State Judicial Council for a term expiring on December 31, 2016.

3           **SECTION 1.37.(b)** Effective immediately, Robert L. Harper of Edgecombe  
4 County is appointed to the State Judicial Council for a term expiring on December 31, 2014.

5           **SECTION 1.38.** Melinda Baran of Wake County is appointed to the Supplemental  
6 Retirement Board of Trustees for a term expiring on June 30, 2014.

7           **SECTION 1.39.** The Honorable Fern Shubert of Union County and Perri L.  
8 Morgan of Wake County are appointed to the Panel on Nongovernmental Competition  
9 (Umstead Act Unfair Competition Panel) for a term expiring on June 30, 2016.

10          **SECTION 1.40.** Daniel Ortiz of Sampson County is appointed to the Well  
11 Contractors Certification Commission for a term expiring on June 30, 2015.

12          **SECTION 1.41.** Charles Philip Byers of Rutherford County is appointed to the  
13 Western North Carolina Regional Economic Development Commission (AdvantageWest North  
14 Carolina) for a term expiring on June 30, 2013, to fill the unexpired term of Elizabeth T. Miller.

15  
16 **PART II. TECHNICAL CORRECTIONS**

17          **SECTION 2.1.** Section 2.22 of S.L. 2010-87 reads as rewritten:

18          "**SECTION 2.22.** William R. (Russ) Davis of Wilson County is appointed to the North  
19 Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term  
20 expiring on ~~July 1, 2012.~~ July 1, 2013. ~~Effective July 1, 2012.~~ Glenn Hines of Currituck County  
21 is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification  
22 Board for a term expiring on ~~July 1, 2013.~~ July 1, 2015."

23          **SECTION 2.2.** Section 1.34 of S.L. 2011-176 reads as rewritten:

24          "**SECTION 1.34.** Effective October 1, 2011, Charles Allen of Cumberland County is  
25 appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on  
26 ~~September 30, 2014.~~ September 30, 2012, to fill the unexpired term of W. Charles Neiman."

27  
28 **PART III. EFFECTIVE DATE**

29          **SECTION 3.** Unless otherwise provided, this act becomes effective July 1, 2012,  
30 and applies to appointments made on or after that date.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

**S**

**1**

**SENATE RESOLUTION 957**

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**Sponsors: Senators Apodaca (Primary Sponsor); and Brock.**

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**Referred to: Rules and Operations of the Senate.**

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June 6, 2012

1 A SENATE RESOLUTION SPECIFICALLY DISAPPROVING EXECUTIVE ORDER NO.  
2 85, ISSUED MARCH 25, 2011, UNDER PROVISIONS OF THE NORTH CAROLINA  
3 CONSTITUTION GRANTING EITHER HOUSE OF THE GENERAL ASSEMBLY TO  
4 DO SO, AS THE GENERAL ASSEMBLY HAS ACCOMPLISHED ADMINISTRATIVE  
5 REORGANIZATIONS BY LEGISLATION.

6       Whereas, Section 5(10) of Article III of the North Carolina Constitution states:  
7 "Administrative reorganization. The General Assembly shall prescribe the functions, powers,  
8 and duties of the administrative departments and agencies of the State and may alter them from  
9 time to time, but the Governor may make such changes in the allocation of offices and agencies  
10 and in the allocation of those functions, powers, and duties as he considers necessary for  
11 efficient administration. If those changes affect existing law, they shall be set forth in executive  
12 orders, which shall be submitted to the General Assembly not later than the sixtieth calendar  
13 day of its session, and shall become effective and shall have the force of law upon adjournment  
14 sine die of the session, unless specifically disapproved by resolution of either house of the  
15 General Assembly or specifically modified by joint resolution of both houses of the General  
16 Assembly"; and

17       Whereas, on March 25, 2011, the Governor issued Executive Order No. 85, entitled  
18 "CONSOLIDATION AND REORGANIZATION OF EXECUTIVE BRANCH AGENCIES  
19 TO IMPROVE THE EFFICIENCY OF STATE GOVERNMENT," which recited that it was  
20 issued under Section 5(10) of Article III of the North Carolina Constitution; and

21       Whereas, the General Assembly has carefully considered the Executive Order; and

22       Whereas, by the following legislation among others, the General Assembly has dealt  
23 with the issues raised in the Executive Order: (i) S.L. 2011-145, "AN ACT TO SPUR THE  
24 CREATION OF PRIVATE SECTOR JOBS; REORGANIZE AND REFORM STATE  
25 GOVERNMENT; MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT  
26 OPERATIONS OF STATE DEPARTMENTS AND INSTITUTIONS; AND TO ENACT  
27 BUDGET RELATED AMENDMENTS"; and (ii) S.L. 2011-401, "AN ACT TO REFORM  
28 THE EMPLOYMENT SECURITY LAWS OF NORTH CAROLINA BY CREATING THE  
29 DIVISION OF EMPLOYMENT SECURITY WITHIN THE DEPARTMENT OF  
30 COMMERCE, TRANSFERRING THE FUNCTIONS OF THE EMPLOYMENT SECURITY  
31 COMMISSION TO THAT DIVISION, MAKING THE DIVISION SUBJECT TO RULE  
32 MAKING UNDER ARTICLE 2A OF CHAPTER 150B OF THE GENERAL STATUTES,  
33 AND BY MAKING OTHER MODIFICATIONS AND CONFORMING CHANGES TO  
34 ALIGN THE EMPLOYMENT SECURITY FUNCTIONS OF STATE GOVERNMENT  
35 UNDER THE DIRECT LEADERSHIP OF THE SECRETARY OF COMMERCE"; and



1           Whereas, a resolution of disapproval is necessary as unless it is adopted Executive  
2 Order No. 85 may become effective under its terms upon sine die adjournment of the 2011  
3 Regular Session of the General Assembly; Now, therefore,

4 Be it resolved by the Senate:

5           **SECTION 1.** Executive Order No. 85, adopted March 25, 2011, is specifically  
6 disapproved under the authority given the Senate by Section 5(10) of Article III of the North  
7 Carolina Constitution.

8           **SECTION 2.** The Enrolling Clerk shall cause this resolution to be published in the  
9 Appendices to the Session Laws for the 2011 Regular Session of the General Assembly.

10           **SECTION 3.** This resolution is effective upon adoption.

**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Friday, June 29, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE  
SUBSTITUTE BILL**

H.B.	<b>1234</b>	2012 Speaker's Appointments Bill.	
		Draft Number:	11393
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

**TOTAL REPORTED: 1**

Committee Clerk Comments:

VISITOR REGISTRATION SHEET

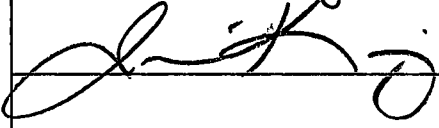
Rules and Operations of the Senate (PM)

(Committee Name)

June 28, 2012

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Smart Books	Ward and Smith
George Smith	WM
Becki Gray	Locke Foundation
Mbecca Tante	NCAAC
Julie Lynn	NCAAC
Rob Hammett	PLA
Weldon Lewis	Jordan Price
Henry Jones	Jordan Price
Andrew Cagle	NC Sheriffs Assn.
	NCEL
ELISE QUICK	Trouth & Sadows
Daniel Baum	Trouth & Sadows
Chris M. Jones	RMC
Clare Fitz Gerald	DENR
Ashleigh Thomson	MWC
Rick Zechini	Progress Energy

VISITOR REGISTRATION SHEET

Rules and Operations of the Senate (PM)

(Committee Name)

June 28, 2012

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Elizabeth Biser	Brooks Pierce
Ben Davis	NC Bankers Assoc
John Sule	WM
Dana Ferrer	CLT
Stann	DIT
Alan Briggs	NC Food Banks
Paula Hopper	Childress Klein
Annaliese Dolph	COV
Susan Amilleri	D&A
Christy Agan	
Bradly Wiggins	Skye
Michael Haysel	NC DOR
Tom Bean	EDF
Cady Thomas	NCAR
Dooi Heron	WM
Heather Barrett	WM



**VISITOR REGISTRATION SHEET**

**Rules and Operations of the Senate (PM)**

**(Committee Name)**

**June 28, 2012**

**Date**

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

<b><u>NAME</u></b>	<b><u>FIRM OR AGENCY AND ADDRESS</u></b>
Mitch Leonard	SEANL
<i>[Signature]</i>	Muse
Vernica Stansberry	NCCWPS
<del>Theresa C. Lee</del>	<del>NCCWPS</del>
David McLennan	NCCWPS
Renee A. Hango	NCCWPS
<del>P. Angelina Simmons</del>	<del>NCCWPS</del>
<del>Bob Block</del>	<del>NCCWPS</del>
Michelle Demming	NCCWPS
Megan D. Boley	NCCWPS
<del>C. Shellis</del>	<del>TSS</del>
Maura Weiss	NCCWPS
Janice Lee	NCCWPS
Charlotte Mitchell	"
Kara Weishaar	SA
Stacy Williams	NCS
<del>J. Deep</del>	<del>NCRBEA</del>

Name	Firm/Agency
Barbara Canstar	B&CON
Dana Simpson	SA
Bonnie Kauler	DMV
Maen Oadi	GSE
Amy McConkey	NCRBEV
Stephen Kouba	Compass MC
Ken Melton	K. M. A.
Matthew Eisting	SA
Doreen Caputo	NCRDA
Harry Epl	LUC

**VISITOR REGISTRATION SHEET**

**Rules and Operations of the Senate (PM)**

(Committee Name)

June 28, 2012

Date

**VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK**

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Lori Ann Harris	LAAHA
Chad Rhoades	NLDACS
Gill Provier	NCDACS
D. Dan	INCERMA
Paul Ferrer	NCFB
Erica Nelson	NCHA
Thom Wines	FWW
Esterina Davis	Esterina Davis & Assoc
BRUCE THOMPSON	PARKER POB
Kim Crouch	NCPBA
REV. MARIC CREECH	CAL
Johnny Miller	MWC
Jackie Cox	NSS
JACK COZORT	Johnny Tillet's Driver
MARY JENNINGS	NLDPS
Alex Miller	KLG

MINUTES

RULES AND OPERATIONS OF THE SENATE


June 28, 2012

The Committee on Rules and Operations of the Senate met on Thursday, June 28, 2012 at 6:00 p.m. in room 1027 of the Legislative Building. Eleven members of the committee were present.

Senator Apodaca presided.

**HOUSE BILL – 1234 – 2012 APPOINTMENTS BILL** – Senator Meredith moved to adopt the Proposed Committee Substitute. Motion carried. Senator Apodaca sent forth an amendment and moved for adoption. Motion carried. Senator Rabon moved for a favorable report to the Proposed Committee Substitute as amended. Motion carried.

The meeting adjourned at 6:15 p.m.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

D

HOUSE BILL 1234  
PROPOSED SENATE COMMITTEE SUBSTITUTE H1234-CSLG-47 [v.1]

Short Title: 2012 Appointments Bill.

(Public)

Sponsors:

Referred to:

June 28, 2012

1 A BILL TO BE ENTITLED  
2 AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE  
3 RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES  
4 AND THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE  
5 TECHNICAL CORRECTIONS TO PREVIOUS APPOINTMENTS.

6 Whereas, G.S. 120-121 authorizes the General Assembly to make certain  
7 appointments to public offices upon the recommendation of the Speaker of the House of  
8 Representatives and the President Pro Tempore of the Senate; and

9 Whereas, the Speaker of the House of Representatives and the President Pro  
10 Tempore of the Senate have made recommendations; Now, therefore,  
11 The General Assembly of North Carolina enacts:

12  
13 **PART I. SPEAKER'S RECOMMENDATIONS**

14 **SECTION 1.1.** Effective October 1, 2012, Lavonda R. Daniels of Durham County  
15 is appointed to the African-American Heritage Commission for a term expiring on September  
16 30, 2015.

17 **SECTION 1.2.** Thomas C. Hege of Davidson County is appointed to the North  
18 Carolina Agriculture Finance Authority for a term expiring on June 30, 2015.

19 **SECTION 1.3.** Larry W. McClellan of Forsyth County and John Thompson of  
20 Robeson County are appointed to the Alarm Systems Licensing Board for terms expiring on  
21 June 30, 2015.

22 **SECTION 1.4.** Lucas S. Jack of Buncombe County is appointed to the Board of  
23 Directors of the North Carolina Arboretum for a term expiring on June 30, 2016.

24 **SECTION 1.5.** Effective October 1, 2012, Craig Fitzgerald of Wake County is  
25 appointed to the North Carolina Brain Injury Advisory Council for a term expiring on  
26 September 30, 2016.

27 **SECTION 1.6.(a)** Rick A. Whitaker of Durham County is appointed to the State  
28 Building Commission for a term expiring on June 30, 2013.

29 **SECTION 1.6.(b)** Robert W. Hites, Jr., of Iredell County is appointed to the State  
30 Building Commission for a term expiring on June 30, 2015.

31 **SECTION 1.7.** Robert Seligson of Wake County is appointed to the Centennial  
32 Authority for a term expiring on June 30, 2016.



1           **SECTION 1.8.** Robin Kegerise of Wake County and Kevin R. Campbell of  
2 Mecklenburg County are appointed to the Child Care Commission for terms expiring on June  
3 30, 2014.

4           **SECTION 1.9.** Charles E. Vines of Mitchell County and Kevin W. Markham of  
5 Wake County are appointed to the Clean Water Management Trust Fund Board of Trustees for  
6 terms expiring on June 30, 2016.

7           **SECTION 1.10.** Harry Schrum of Alexander County and Allen Kelly of Wake  
8 County are appointed to the North Carolina Code Officials Qualification Board for terms  
9 expiring on June 30, 2016.

10          **SECTION 1.11.** Diane L. Danchi of Wake County is appointed to the North  
11 Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2015.

12          **SECTION 1.12.(a)** The Honorable Karen B. Ray of Iredell County is appointed to  
13 the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on  
14 June 30, 2015.

15          **SECTION 1.12.(b)** Effective January 1, 2013, Representative Shirley Randleman  
16 of Wilkes County is appointed to the Disciplinary Hearing Commission of the North Carolina  
17 State Bar for a term expiring on June 30, 2015.

18          **SECTION 1.13.** Effective October 1, 2012, Lorrie Dollar of Wake County is  
19 appointed to the Dispute Resolution Commission for a term expiring on September 30, 2015.

20          **SECTION 1.14.** Effective September 1, 2012, Jo M. Liles of Hertford County,  
21 George S. York, Jr., of Wake County, Matthew A. Hambidge of Cleveland County,  
22 Representative John Faircloth of Guilford County, Mary Catherine Stevens of Surry County,  
23 Charles E. Campbell, II, of Moore County, and Julia B. Freeman of Haywood County are  
24 appointed to the Domestic Violence Commission for terms expiring on August 31, 2014.

25          **SECTION 1.15.** Effective December 1, 2012, Russell L. Proctor III of Nash  
26 County is appointed to the Economic Investment Committee for a term expiring on November  
27 30, 2014.

28          **SECTION 1.16.** Effective January 1, 2013, Representative Craig Horn of Union  
29 County is appointed to the Education Commission of the States for a term expiring on  
30 December 31, 2016.

31          **SECTION 1.17.** Benne C. Hutson of Mecklenburg County is appointed to the  
32 Environmental Management Commission for a term expiring on June 30, 2014.

33          **SECTION 1.18.** Effective January 1, 2013, the Honorable John M. Tyson of  
34 Cumberland County is appointed to the State Ethics Commission for a term expiring on  
35 December 31, 2016.

36          **SECTION 1.19.** Effective September 1, 2012, Dan W. Kornelis of Forsyth County,  
37 Daniel C. Ayscue of Cleveland County, R. Scott Dedman of Buncombe County, Brian D.  
38 Coyle of Wake County, and Melody Smith of Wake County are appointed to the North  
39 Carolina Housing Partnership for terms expiring on August 31, 2015.

40          **SECTION 1.20.** Faline Locklear Dial of Robeson County is appointed to the North  
41 Carolina State Commission of Indian Affairs for a term expiring on June 30, 2014.

42          **SECTION 1.21.** Effective September 1, 2012, David Mark Hullender of Cleveland  
43 County is appointed to the Commission on Indigent Defense Services for a term expiring on  
44 August 31, 2016.

45          **SECTION 1.22.** Effective October 1, 2012, Michael Currin of Wake County is  
46 appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on  
47 September 30, 2015.

48          **SECTION 1.23.** Effective January 1, 2013, Mary M. Tucker of Wake County,  
49 Emmit Ray of Cabarrus County, Bob M. Russ of Forsyth County, and David Stone of Wake  
50 County are appointed to the License to Give Trust Fund Commission for terms expiring on  
51 December 31, 2014.

1           **SECTION 1.24.** Effective January 1, 2013, Ralph E. Fuller of Craven County is  
2 appointed to the North Carolina Locksmith Licensing Board for a term expiring on December  
3 31, 2015.

4           **SECTION 1.25.** Effective September 1, 2012, W. Keith Ballentine of Nash County  
5 is appointed to the North Carolina State Lottery Commission for a term expiring on August 31,  
6 2017.

7           **SECTION 1.26.** Michael C. Adcock of Brunswick County, Nina S. Walker of  
8 Harnett County, and Douglas S. Ramsey of Alexander County are appointed to the North  
9 Carolina Manufactured Housing Board for terms expiring on June 30, 2015.

10           **SECTION 1.27.** David Bedington of Catawba County and Renee D. Hays of Wake  
11 County are appointed to the North Carolina Board of Massage and Bodywork Therapy for  
12 terms expiring on June 30, 2015.

13           **SECTION 1.28.** Peggy S. Terhune of Randolph County, Ann Shaw of Randolph  
14 County, and Roger L. Dillard, Jr., of Forsyth County are appointed to the Commission for  
15 Mental Health, Developmental Disabilities and Substance Abuse Services for terms expiring on  
16 June 30, 2015.

17           **SECTION 1.29.(a)** If both Senate Bill 810 and 820, 2011 Regular Session, become  
18 law, then the following shall be appointed to the North Carolina Mining and Energy  
19 Commission: Charles E. Holbrook of Moore County (Category 7) for a term expiring on June  
20 30, 2014, Raymond T. Covington of Guilford County (Category 4) and William McNeely III of  
21 Transylvania County (Category 6) for terms expiring on June 30, 2015, and Charles Taylor of  
22 Lee County (Category 5) for a term expiring on June 30, 2016.

23           **SECTION 1.29.(b)** If Senate Bill 820, 2011 Regular Session, becomes law and  
24 Senate Bill 810, 2011 Regular Session, does not become law, then the following shall be  
25 appointed to the North Carolina Mining and Energy Commission: Charles E. Holbrook of  
26 Moore County (Category 7) for a term expiring on June 30, 2014, Raymond T. Covington of  
27 Guilford County (Category 4) and Christopher J. Ayers of Wake County (Category 6) for terms  
28 expiring on June 30, 2015, and Charles Taylor of Lee County (Category 5) for a term expiring  
29 on June 30, 2016.

30           **SECTION 1.30.(a)** Effective January 1, 2013, Robert Smith of Mecklenburg  
31 County, Richard Isherwood of Mecklenburg County, and Jean Thaxton of Alamance County  
32 are appointed to the 911 Board for terms expiring on December 31, 2016.

33           **SECTION 1.30.(b)** Sheriff Len D. Hagaman, Jr., of Watauga County is appointed  
34 to the 911 Board for a term expiring on December 31, 2014, to fill the unexpired term of  
35 Sheriff Rick Davis.

36           **SECTION 1.31.** Benjamin C. Hobbs of Chowan County, Steven E. Howell of  
37 Northampton County, and Donny L. Lassiter of Northampton County are appointed to the  
38 North Carolina's Northeast Commission for a term expiring on June 30, 2014.

39           **SECTION 1.32.** Diana Rashash of Onslow County is appointed to the North  
40 Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term  
41 expiring on June 30, 2015.

42           **SECTION 1.33.** Paul A. Herbert of Mecklenburg County and Edward W. Wood of  
43 New Hanover County are appointed to the North Carolina Parks and Recreation Authority for  
44 terms expiring on June 30, 2015.

45           **SECTION 1.34.** Luther H. Hodges, Jr., of Watauga County is appointed to the  
46 North Carolina State Ports Authority for a term expiring on June 30, 2014.

47           **SECTION 1.35.** Robert M. Clark of Stanly County, Clyde Cook of Wake County,  
48 Marcus T. Benson of New Hanover County, and William F. Booth of Brunswick County are  
49 appointed to the Private Protective Services Board for terms expiring on June 30, 2015.

1           **SECTION 1.36.** Effective November 1, 2012, Paul Coyle of Gaston County and  
2 Larry Bruce Simpson of Alamance County are appointed to the North Carolina Respiratory  
3 Care Board for term expiring on October 31, 2015.

4           **SECTION 1.37.** Kenneth J. Daidone of Dare County, Agnes B. Powell of Bertie  
5 County, and Robert Partridge of Washington County are appointed to the Roanoke Island  
6 Commission for terms expiring on June 30, 2014.

7           **SECTION 1.38.** Jeanette K. Doran of Wake County and Anna Baird Choi of Wake  
8 County are appointed to the Rules Review Commission for terms expiring on June 30, 2014.

9           **SECTION 1.39.** Sheriff Maynard B. Reid, Jr., of Randolph County is appointed to  
10 the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring  
11 on June 30, 2015.

12           **SECTION 1.40.** Effective January 1, 2013, James A. Phillips, Jr., of Stanly County  
13 is appointed to the State Judicial Council for a term expiring on December 31, 2016.

14           **SECTION 1.41.** Mona M. Keech of Wake County is appointed to the North  
15 Carolina Supplemental Retirement Board of Trustees for a term expiring on June 30, 2014.

16           **SECTION 1.42.** Jeremy Freeman of Surry County is appointed to the Teaching  
17 Fellows Commission for a term expiring on June 30, 2015.

18           **SECTION 1.43.** Jonathan S. Loftis of Harnett County is appointed to the North  
19 Carolina Veterinary Medical Board for a term expiring on June 30, 2017.

20           **SECTION 1.44.** Cassandra Champion of Granville County is appointed to the Well  
21 Contractors Certification Commission for a term expiring on June 30, 2015.

## 22 23 **PART II. PRESIDENT PRO TEMPORE'S APPOINTMENTS**

24           **SECTION 2.1.** Effective January 1, 2013, Bobby Bottoms of Stokes County and  
25 Laura Sykora of Wake County are appointed to the 911 Board for terms expiring on December  
26 31, 2017.

27           **SECTION 2.2.** Andrew Kingoff of New Hanover County is appointed to the  
28 Acupuncture Licensing Board for a term expiring on June 30, 2015.

29           **SECTION 2.3.** Effective October 1, 2012, Charles E. Evans of Cumberland  
30 County is appointed to the African-American Heritage Commission for a term expiring on  
31 September 30, 2015.

32           **SECTION 2.4.** Patricia Todd of Mecklenburg County is appointed to the  
33 Commission for Mental Health, Developmental Disabilities and Substance Abuse Services for  
34 a term expiring on June 30, 2015.

35           **SECTION 2.5.** Effective September 1, 2012, Christine Mumma of Durham County  
36 is appointed to the Commission on Indigent Defense Services for a term expiring on August 31,  
37 2016.

38           **SECTION 2.6.** Joshua Fulton of New Hanover County is appointed to the  
39 Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June  
40 30, 2015.

41           **SECTION 2.7.(a)** Effective immediately, Marjorie Menestres of Wake County is  
42 appointed to the Domestic Violence Commission for a term expiring on August 31, 2013.

43           **SECTION 2.7.(b)** Effective September 1, 2012, Dudley Watts, Jr., of Forsyth  
44 County, Alexander Nicely of New Hanover County, Susan Bray of Guilford County, Armor  
45 Pyrtle of Rockingham County, and Senator Warren Daniel of Burke County are appointed to  
46 the Domestic Violence Commission for terms expiring on August 31, 2014.

47           **SECTION 2.8.** Donnie Loftis of Gaston County is appointed to the Interstate  
48 Commission on Educational Opportunity for Military Children State Council to serve at the  
49 pleasure of the appointing authority.



1           **SECTION 2.9.** Senator Louis Pate of Wayne County is appointed to the  
2 Justus-Warren Heart Disease and Stroke Prevention Task Force for a term expiring on June 30,  
3 2013, to fill the unexpired term of the Honorable James Forrester.

4           **SECTION 2.10.** Effective January 1, 2012, Lloyd H. Jordan, Jr., of Pitt County,  
5 Robin Surane of Mecklenburg County, Kenneth Burkel of Forsyth County, and Arthur Totillo  
6 of Person County are appointed to the License to Give Trust Fund Commission for terms  
7 expiring on December 31, 2013.

8           **SECTION 2.11.(a)** Gerald Warren of Sampson County is appointed to the North  
9 Carolina Agricultural Finance Authority for a term expiring on June 30, 2015.

10           **SECTION 2.11.(b)** Ed Emory of Duplin County is appointed to the North Carolina  
11 Agricultural Finance Authority for a term expiring on June 30, 2014.

12           **SECTION 2.12.** The Honorable Fern Shubert of Union County is appointed to the  
13 North Carolina Appraisal Board for a term expiring on June 30, 2015.

14           **SECTION 2.13.** Jennifer Sullivan of Cumberland County is appointed to the North  
15 Carolina Arboretum Board of Directors for a term expiring on June 30, 2016.

16           **SECTION 2.14.** Paula Neal of Wake County and Janah Fletcher of Guilford  
17 County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms  
18 expiring on June 30, 2015.

19           **SECTION 2.15.** Kathleen Sodoma of Wayne County is appointed to the North  
20 Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2015.

21           **SECTION 2.16.** Effective March 1, 2012, Vincent DeBenedetto of Wake County  
22 is appointed to the North Carolina Capital Facilities Finance Agency Board of Directors for a  
23 term expiring on March 1, 2016.

24           **SECTION 2.17.** Michael Womble of Mitchell County and Aaron L. Fleming of  
25 Wake County are appointed to the North Carolina Center for the Advancement of Teaching  
26 Board of Trustees for terms expiring on June 30, 2016.

27           **SECTION 2.18.(a)** William Walton, III, of Pitt County and Elizabeth Gilleland of  
28 Wake County are appointed to the North Carolina Child Care Commission for terms expiring  
29 on June 30, 2014.

30           **SECTION 2.18.(b)** April Duvall of Macon County is appointed to the North  
31 Carolina Child Care Commission for a term expiring on June 30, 2013, to fill the unexpired  
32 term of Julie Cardwell.

33           **SECTION 2.19.(a)** Jane Dolan of Wake County is appointed to the North Carolina  
34 Interpreter and Transliterator Licensing Board for a term expiring on June 30, 2013.

35           **SECTION 2.19.(b)** Ashley Benton of Wake County and Wayne Giese of Burke  
36 County are appointed to the North Carolina Interpreter and Transliterator Licensing Board for  
37 terms expiring on June 30, 2015.

38           **SECTION 2.20.** Effective October 1, 2012, Frank Snow of Cumberland County is  
39 appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on  
40 September 30, 2015.

41           **SECTION 2.21.** Effective January 1, 2013, Kelly Reid Barbee of Onslow County  
42 and Philip J. Lanier of Forsyth County are appointed to the North Carolina Locksmith  
43 Licensing Board for terms expiring on December 31, 2015.

44           **SECTION 2.22.** Effective October 1, 2012, the Honorable Hugh Webster of  
45 Alamance County is appointed to the North Carolina Manufactured Housing Board for a term  
46 expiring on September 30, 2015.

47           **SECTION 2.23.(a)** If both Senate Bill 810 and 820, 2011 Regular Session, become  
48 law, then the following shall be appointed to the North Carolina Mining and Energy  
49 Commission: Ivan Gilmore of Beaufort County (Category 10) for a term expiring on June 30,  
50 2014, James Womack of Lee County (Category 9) for a term expiring on June 30, 2015,

1 Vikram Rao of Orange County (Category 11) and George Howard of Wake County (Category  
2 8) for terms expiring on June 30, 2016.

3 **SECTION 2.23.(b)** If Senate Bill 820, 2011 Regular Session, becomes law and  
4 Senate Bill 810, 2011 Regular Session, does not become law, then the following shall be  
5 appointed to the North Carolina Mining and Energy Commission: James Womack of Lee  
6 County (Category 9) for a term expiring on June 30, 2015, and Vikram Rao of Orange County  
7 (Category 11) and George Howard of Wake County (Category 8) for terms expiring on June  
8 30, 2016.

9 **SECTION 2.24.** Westin Bordeaux of New Hanover County and Cynthia K. Tart of  
10 Brunswick County are appointed to the North Carolina Parks and Recreation Authority for  
11 terms expiring on July 1, 2015.

12 **SECTION 2.25.** Effective November 1, 2012, Edward Bratzke of Wake County is  
13 appointed to the North Carolina Respiratory Care Board for a term expiring on October 31,  
14 2015.

15 **SECTION 2.26.** Effective April 1, 2012, Edward Ashby III of Surry County is  
16 appointed to the North Carolina State Banking Commission for a term expiring on March 31,  
17 2016.

18 **SECTION 2.27.** Benjamin Tuggle of Randolph County is appointed to the North  
19 Carolina State Building Commission for a term expiring on June 30, 2015.

20 **SECTION 2.28.(a)** Effective September 30, 2012, Barry Dodson of Rockingham  
21 County is appointed to the North Carolina State Lottery Commission for a term expiring on  
22 August 31, 2013.

23 **SECTION 2.28.(b)** Effective September 30, 2012, Jody Tyson of Greene County is  
24 appointed to the North Carolina State Lottery Commission for a term expiring on August 31,  
25 2017.

26 **SECTION 2.29.** Patrick Joyce of Carteret County is appointed to the North  
27 Carolina State Ports Authority for a term expiring on June 30, 2014.

28 **SECTION 2.30.** Angela Upchurch of Gaston County is appointed to the North  
29 Carolina Teaching Fellows Commission for a term expiring on July 1, 2015.

30 **SECTION 2.31.** Gary Spence of Mecklenburg County is appointed to the North  
31 Carolina Wildlife Resources Commission for a term expiring on June 30, 2013, to fill the  
32 unexpired term of Doc J. Thurston.

33 **SECTION 2.32.** John M. Tayloe of Bertie County, Richard Halbert of Chowan  
34 County, and William J. Moore, Jr., of Chowan County are appointed to the North Carolina's  
35 Northeast Commission for terms expiring on June 30, 2014.

36 **SECTION 2.33.** Eric Weaver, Sr., of Wake County, William MacRae of Wake  
37 County, and Richard A. Epley of Burke County are appointed to the Private Protective Services  
38 Board for terms expiring on June 30, 2015.

39 **SECTION 2.34.** Heidi Leo of Dare County, Zenas E. Fearing, Jr., of Dare County,  
40 and Edward Brent Lane of Wake County are appointed to the Roanoke Island Commission for  
41 terms expiring on June 30, 2014.

42 **SECTION 2.35.** Victor L. Riley of Mecklenburg County is appointed to the State  
43 Board of Proprietary Schools for a term expiring on December 30, 2014, to fill the unexpired  
44 term of Thom Eastwood.

45 **SECTION 2.36.** Effective January 1, 2013, Les Merritt, Jr., of Wake County is  
46 appointed to the State Ethics Commission for a term expiring on December 31, 2016.

47 **SECTION 2.37.(a)** Effective January 1, 2013, Hugh B. Campbell, III, of Surry  
48 County is appointed to the State Judicial Council for a term expiring on December 31, 2016.

49 **SECTION 2.37.(b)** Effective immediately, Robert L. Harper of Edgecombe  
50 County is appointed to the State Judicial Council for a term expiring on December 31, 2014.

1           **SECTION 2.38.** Melinda Baran of Wake County is appointed to the Supplemental  
2 Retirement Board of Trustees for a term expiring on June 30, 2014.

3           **SECTION 2.39.** The Honorable Fern Shubert of Union County and Perri L.  
4 Morgan of Wake County are appointed to the Panel on Nongovernmental Competition  
5 (Umstead Act Unfair Competition Panel) for a term expiring on June 30, 2016.

6           **SECTION 2.40.** Daniel Ortiz of Sampson County is appointed to the Well  
7 Contractors Certification Commission for a term expiring on June 30, 2015.

8           **SECTION 2.41.** Charles Philip Byers of Rutherford County is appointed to the  
9 Western North Carolina Regional Economic Development Commission (Advantage West North  
10 Carolina) for a term expiring on June 30, 2013, to fill the unexpired term of Elizabeth T. Miller.

### 11 12 **PART III. TECHNICAL CORRECTIONS**

13           **SECTION 3.1.** Section 2.22 of S.L. 2010-87 reads as rewritten:

14           "**SECTION 2.22.** William R. (Russ) Davis of Wilson County is appointed to the North  
15 Carolina On-Site Wastewater Contractors and Inspectors Certification Board for a term  
16 expiring on ~~July 1, 2012~~ July 1, 2013. Effective July 1, 2012, Glenn Hines of Currituck County  
17 is appointed to the North Carolina On-Site Wastewater Contractors and Inspectors Certification  
18 Board for a term expiring on ~~July 1, 2013~~ July 1, 2015."

19           **SECTION 3.2.** Section 1.34 of S.L. 2011-176 reads as rewritten:

20           "**SECTION 1.34.** Effective October 1, 2011, Charles Allen of Cumberland County is  
21 appointed to the North Carolina Irrigation Contractors' Licensing Board for a term expiring on  
22 ~~September 30, 2014~~ September 30, 2012, to fill the unexpired term of W. Charles Neiman."

### 23 24 **PART IV. EFFECTIVE DATE**

25           **SECTION 4.** Unless otherwise provided, this act becomes effective July 1, 2012,  
26 and applies to appointments made on or after that date.  
27

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 3  
H. B. No. 555/234

DATE 6/28/12

S. B. No. \_\_\_\_\_

Amendment No. \_\_\_\_\_

(to be filled in by  
Principal Clerk)

COMMITTEE SUBSTITUTE

Rep.) Apodaca  
Sen

1 moves to amend the bill on page B6, line 32 30

2 ( ) WHICH CHANGES THE TITLE  
3 by deleting "GARY" and inserting "J. GARRY"

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
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SIGNED [Signature]

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

MINUTES

RULES AND OPERATIONS OF THE SENATE

July 2, 2012

The Committee on Rules and Operations of the Senate met on Monday, July 2, 2012 at 3:00 p.m. in room 1027 of the Legislative Building. Fourteen members of the committee were present.

Senator Apodaca presided.

**HOUSE BILL 1179 – INDIAN CUL. /CTR. GOLF LEASE** – Trina Griffin, Research Staff Attorney, explained the bill. Senator Blue moved for a favorable report. Motion carried.

**SENATE JOINT RESOLUTION – 961 – A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2011 REGULAR SESSION OF THE GENERAL ASSEMBLY** – Senator Brock moved for a favorable report. Motion carried.

**HOUSE BILL 994 – ROCKINGHAM COUNTY DESIGN-BUILD** – Giles Perry, Research Staff Attorney, explained the bill. Senator Hartsell moved for a favorable report. Motion carried.

The meeting adjourned at 3:20.

  
\_\_\_\_\_  
Senator Tom Apodaca, Chairman

  
\_\_\_\_\_  
Carolyn M. Gooden, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2011

FILED - SENATE

S 961

JUL 2 2012  
D

S

SENATE JOINT RESOLUTION DRSJR85319-LB-512 (05/20) PRINCIPAL CLERK

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Sponsors: Senator Apodaca (Primary Sponsor).

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Referred to:

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1 A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 2011  
2 REGULAR SESSION OF THE GENERAL ASSEMBLY.

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

4 SECTION 1. When the Senate and the House of Representatives, constituting the  
5 2011 Session of the General Assembly, adjourn on Tuesday, July 3, 2012, they stand adjourned  
6 sine die.

7 SECTION 2. This resolution is effective upon ratification.



GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

4

HOUSE BILL 1179  
Committee Substitute Favorable 6/6/12  
Third Edition Engrossed 6/13/12  
Committee Substitute #2 Favorable 6/26/12

Short Title: Indian Cul. Ctr/Golf Course Terminate Leases.

(Public)

Sponsors:

Referred to:

May 30, 2012

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THE STATE TO TERMINATE ITS LEASE OF THE INDIAN  
2 CULTURAL CENTER PROPERTY AND THE RIVERSIDE GOLF COURSE  
3 PROPERTY AND TO DIRECT THE PROGRAM EVALUATION DIVISION TO  
4 STUDY THE OPTIONS FOR THE DISPOSITION OF THE PROPERTIES.  
5

6 Whereas, the State of North Carolina acquired the following tracts or parcels of  
7 land located in Maxton Township, Robeson County, for the development, use, and maintenance  
8 of an Indian Cultural Center: (i) 386.69 acres, more or less, by deed from the Riverside Country  
9 Club of Pembroke, Inc., dated April 14, 1983, recorded in Book 533, Page 164, Robeson  
10 County Registry and by deed dated August 24, 1984, recorded in Book 563, Page 254, Robeson  
11 County Registry, less and except approximately 110 acres for the use and operation of the  
12 Riverside Golf Course; (ii) 99.62 acres, more or less, by deed from Evelyn S. Morgan Abbott,  
13 dated March 25, 1988, recorded in Book 575, Page 523, Robeson County Registry; (iii) 10  
14 acres, more or less, by deed from H.C. Locklear, et ux, dated December 12, 1985, recorded in  
15 Book 586, Page 142, Robeson County Registry; and (iv) 42.50 acres, more or less, by deed  
16 from Ronald Revels and wife, Dorisetta Revels, dated December 17, 1996, recorded in Book  
17 931, Page 415, Robeson County Registry; and

18 Whereas, pursuant to Chapter 1074 of the 1989 Session Laws, as amended by  
19 Chapter 900 of the 1991 Session Laws and Chapter 88 of the 1993 Session Laws, the General  
20 Assembly directed that the State of North Carolina enter into a 99-year lease of the Indian  
21 Cultural Center property with a North Carolina nonprofit entity known as the North Carolina  
22 Indian Cultural Center, Inc. (NCICC); and

23 Whereas, the State of North Carolina entered into a 99-year lease agreement, dated  
24 May 12, 1994, with NCICC, which lease was subsequently amended on December 9, 1997, and  
25 June 6, 2001, in accordance with S.L. 1997-41 and S.L. 2001-89 (collectively, the "lease"); and

26 Whereas, the lease provides in paragraph 8 that the Indian Cultural Center property  
27 is to "be maintained and improved, at no cost or expense to the [State of North Carolina], for  
28 those activities covered by the original charter of [T]he North Carolina Indian Cultural Center,  
29 Inc., on file with the North Carolina Secretary of State"; and

30 Whereas, as provided in its charter, the organizational purposes of NCICC are, in  
31 part: "a. [t]o respectfully present to the public accurate information on Native North American  
32 history, art, and culture"; and "b. [t]o develop, establish, manage, furnish, equip, maintain,  
33 preserve, exhibit and interpret to the public the North Carolina Indian Cultural Center with its  
34 Indian villages, arts and crafts, archaeological digs, museums, art exhibits, library, visitors'



1 center, recreational facilities, entertainment, restaurants, concessions, and other related  
2 operations of an artistic, economic development, educational, and cultural nature"; and

3       Whereas, in addition to the maintenance requirements of paragraph 8, paragraphs 16  
4 and 20 of the lease require NCICC to maintain during its term of possession, at its expense, the  
5 Indian Cultural Center property and all permanent structures located on the property in  
6 accordance with all applicable laws, rules, ordinances, orders, and regulations of State and  
7 county governmental agencies; and

8       Whereas, in March 2010, the Office of State Construction assessed the condition of  
9 the improvements at the Indian Cultural Center property, from which assessment it appears that  
10 the improvements on the property have not been maintained as required in paragraphs 8, 16,  
11 and 20 of the lease; and

12       Whereas, subsequently, the North Carolina Department of Insurance conducted a  
13 fire and safety inspection at the Indian Cultural Center property, from which inspection it  
14 appears that the improvements on the property have not been maintained as required in  
15 paragraphs 8, 16, and 20 of the lease; and

16       Whereas, the Riverside Golf Course, comprising approximately 110 acres, is  
17 contiguous to Indian Cultural Center property and uses as a means of access the main road  
18 extending through the Indian Cultural Center property; and

19       Whereas, pursuant to paragraph 13 of the lease, the State of North Carolina retained  
20 the right of ingress and egress, both vehicular and pedestrian, over the main road extending  
21 through the Indian Cultural Center property for the purpose of accessing the Riverside Golf  
22 Course; and

23       Whereas, NCICC has hindered or prevented access to the Riverside Golf Course by  
24 the State, its lessees, contractors, and invitees by changing the locks on the entrance gate to the  
25 Indian Cultural Center property and by other means; and

26       Whereas, paragraph 25 of the lease requires NCICC to keep in force, and maintain  
27 throughout the term of the lease, fire and extended coverage insurance on the permanent  
28 structures located on the Indian Cultural Center property; and

29       Whereas, pursuant to paragraph 26 of the lease, NCICC is required to keep in force,  
30 for the mutual benefit of the State and NCICC, at no cost to the State, comprehensive broad  
31 form general public liability insurance on the terms and conditions set forth in the lease; and

32       Whereas, NCICC has failed to provide evidence to the State that the insurance  
33 required under paragraphs 25 and 26 of the lease is in force; and

34       Whereas, upon consultation with the Department of Administration, the Office of  
35 the Attorney General provided NCICC with notice in a letter dated January 18, 2011, that  
36 NCICC was in breach of its obligations under the lease for defaults that included some of those  
37 set forth above; and

38       Whereas, the General Assembly also finds that NCICC is, and has been for some  
39 time, in breach of its obligations under the lease for the defaults set forth above and other  
40 defaults and that it would be in the best interest of the State if the lease were terminated and  
41 existing law amended to allow the State of North Carolina to effect an alternate arrangement  
42 for the disposition and management of the Indian Cultural Center property other than the lease  
43 with NCICC; and

44       Whereas, pursuant to subsection (a) of Section 18 of Chapter 1074 of the 1989  
45 Session Laws, as amended by Section 22 of Chapter 900 of the 1991 Session Laws, Section 1  
46 of Chapter 88 of the 1993 Session Laws, Section 33 of Chapter 561 of the 1993 Session Laws,  
47 Section 1 of S.L. 1997-41, and Section 1 of S.L. 2001-89, the Riverside Golf Course was  
48 excluded from the real property subject to the lease and operated for a period of time under  
49 separate lease agreements; and



1           Whereas, the Riverside Golf Course is not currently in operation and all lease  
2 agreements for the Riverside Golf Course have either expired or allow for termination upon 30  
3 days' notice by the State; Now, therefore,

4 The General Assembly of North Carolina enacts:

5           **SECTION 1.** Termination of leases and repossession of land. – Notwithstanding  
6 the provisions of subsection (a) of Section 18 of Chapter 1074 of the 1989 Session Laws, as  
7 amended by subsection (e) of Section 22 of Chapter 900 of the 1991 Session Laws, Section 1 of  
8 Chapter 88 of the 1993 Session Laws, Section 33 of Chapter 561 of the 1993 Session Laws,  
9 Section 1 of S.L. 1997-41, and Section 1 of S.L. 2001-89, the State of North Carolina shall  
10 immediately terminate its lease of the Indian Cultural Center property pursuant to the terms of  
11 the lease and repossess the property. The State of North Carolina shall also terminate its lease  
12 of the Riverside Golf Course property upon giving 30 days' notice pursuant to the terms of the  
13 lease and repossess the property. The State of North Carolina shall not sell, lease, or otherwise  
14 dispose of the Indian Cultural Center property or the Riverside Golf Course property until the  
15 Joint Legislative Program Evaluation Oversight Committee has made its final  
16 recommendations upon completion of the study directed by Section 2 of this act and the  
17 General Assembly has enacted legislation directing action on this issue.

18           **SECTION 2.(a)** PED Study. – The Joint Legislative Program Evaluation Oversight  
19 Committee shall include in the 2012-2013 Work Plan for the Program Evaluation Division of  
20 the General Assembly a study to evaluate the options for disposing of the Indian Cultural  
21 Center property and the Riverside Golf Course property in such a way that ensures that the  
22 properties will continue to serve all of the purposes listed in this section. The purposes are:

- 23           (1) The preservation, exhibition, and interpretation of Native North American  
24 arts, crafts, and artifacts.
- 25           (2) The provision of information to the public on Native North American history  
26 and culture.
- 27           (3) The installation of new and the renovation of existing public recreational and  
28 entertainment facilities.
- 29           (4) The cultivation of economic development enterprises.

30           **SECTION 2.(b)** Reporting. – The Program Evaluation Division shall submit its  
31 findings and recommendations to the Joint Legislative Program Evaluation Oversight  
32 Committee at a date to be determined by the Joint Legislative Program Evaluation Oversight  
33 Committee. The Committee shall submit its findings and recommendations to the General  
34 Assembly on or before the convening of the 2013 General Assembly.

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

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

H

2

HOUSE BILL 994  
Committee Substitute Favorable 6/26/12

Short Title: Rockingham County Design-Build.

(Local)

Sponsors:

Referred to:

May 21, 2012

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE COUNTY OF ROCKINGHAM TO USE DESIGN-BUILD  
DELIVERY METHODS.

The General Assembly of North Carolina enacts:

**SECTION 1.** Notwithstanding G.S. 143-128, 143-129, 143-131, 143-132, 143-64.31, and 143-64.32, Rockingham County may use the design-build method of construction for up to three projects involving the construction or renovation of buildings owned by the County. The County shall seek to prequalify and solicit at least three design-build teams to bid on the project and shall receive at least three sealed proposals from those teams for each project. The proposals shall not require the design-build team to submit project design solutions. If three proposals are not received and the project has been publicly advertised for a minimum of 30 days, the County may proceed with the proposals received. The County shall interview at least two of the design-build teams that submit proposals. The County shall award the contract to the best qualified team, taking into consideration in its selection the time of completion of any project, compliance with the provisions of G.S. 143-128.2, and the cost of the project.

**SECTION 2.** This act is effective when it becomes law and expires on June 30, 2017.



**NORTH CAROLINA GENERAL ASSEMBLY  
SENATE**

**RULES AND OPERATIONS OF THE SENATE COMMITTEE REPORT  
Senator Tom Apodaca, Chair**

Monday, July 02, 2012

Senator APODACA,  
submits the following with recommendations as to passage:

**FAVORABLE**

H.B.(CS #2) 1179	Indian Cultural Center/Terminate Lease.	
	Sequential Referral:	None
	Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comments: