

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 327*
Committee Substitute Favorable 5/31/05
Senate Judiciary I Committee Substitute Adopted 8/23/05

Short Title: 2005 Technical Corrections Act.

(Public)

Sponsors:

Referred to:

February 22, 2005

A BILL TO BE ENTITLED

1 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING
2 CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE
3 GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER
4 CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.
5

6 The General Assembly of North Carolina enacts:

7 **PART I. TECHNICAL CHANGES RECOMMENDED BY THE GENERAL**
8 **STATUTES COMMISSION**

9 **SECTION 1.(a)** G.S. 7A-775(a)(4) reads as rewritten:

10 "(4) Arranging for an annual audit, in accordance with
11 ~~G.S. 143-6.1~~;G.S. 143-6.2;"

12 **SECTION 1.(b)** G.S. 143B-168.12(c) reads as rewritten:

13 "(c) The North Carolina Partnership shall require each local partnership to place
14 in each of its contracts a statement that the contract is subject to monitoring by the local
15 partnership and North Carolina Partnership, that contractors and subcontractors shall be
16 fidelity bonded, unless the contractors or subcontractors receive less than one hundred
17 thousand dollars (\$100,000) or unless the contract is for child care subsidy services, that
18 contractors and subcontractors are subject to audit oversight by the State Auditor, and
19 that contractors and subcontractors shall be audited as required by
20 ~~G.S. 143-6.1~~.G.S. 143-6.2. Organizations subject to G.S. 159-34 shall be exempt from
21 this requirement."

22 **SECTION 2.** G.S. 14-226(b) reads as rewritten:

23 "(b) A defendant in a criminal proceeding who threatens a witness in the
24 defendant's case with the assertion or denial of parental rights shall be ~~a~~in violation of
25 this section."

26 **SECTION 3.(a)** G.S. 14-309.15(a) reads as rewritten:

27 "(a) It is lawful for any nonprofit organization or association, recognized by the
28 Department of Revenue as tax-exempt pursuant to G.S. 105-130.11(a), and for any

1 government entity within the State, to conduct raffles in accordance with this section.
 2 Any person who conducts a raffle in violation of any provision of this section shall be
 3 guilty of a Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle
 4 for a period of one year. It is lawful to participate in a raffle conducted pursuant to this
 5 section. It shall not constitute a violation of State law to advertise a raffle conducted in
 6 accordance with this section. A raffle conducted pursuant to this section is not
 7 "gambling".

8 **SECTION 3.(b)** Section 2 of Chapter 219 of the 1993 Session Laws is
 9 repealed.

10 **SECTION 4.** G.S. 14-404(a) reads as rewritten:

11 "(a) Upon application, the sheriff shall issue the license or permit to a resident of
 12 that ~~county~~county, unless the purpose of the permit is for collecting, in which case a
 13 sheriff can issue a permit to a ~~nonresident~~nonresident, when the sheriff has done all of
 14 the following:

- 15 (1) Verified by a criminal history background investigation that it is not a
 16 violation of State or federal law for the applicant to purchase, transfer,
 17 receive, or possess a handgun. The sheriff shall determine the criminal
 18 history of any applicant by accessing computerized criminal history
 19 records as maintained by the State Bureau of Investigation and the
 20 Federal Bureau of Investigation, by conducting a national criminal
 21 history records check, and by conducting a criminal history check
 22 through the Administrative Office of the Courts.
- 23 (2) Fully satisfied himself or herself by affidavits, oral evidence, or
 24 otherwise, as to the good moral character of the applicant.
- 25 (3) Fully satisfied himself or herself that the applicant desires the
 26 possession of the weapon mentioned for (i) the protection of the home,
 27 business, person, family or property, (ii) target shooting, (iii)
 28 collecting, or (iv) hunting."

29 **SECTION 5.** G.S. 14-407.1 reads as rewritten:

30 **"§ 14-407.1. Sale of blank cartridge pistols.**

31 The provisions of ~~G.S. 14-402 and 14-405 to 14-407~~G.S. 14-402, 14-405, and
 32 14-406 shall apply to the sale of pistols suitable for firing blank cartridges. The ~~clerks of~~
 33 ~~the superior courts~~sheriffs of all the counties of this State are authorized and may in
 34 their discretion issue to any person, firm or corporation, in any such county, a license or
 35 permit to purchase or receive any pistol suitable for firing blank cartridges from any
 36 person, firm or corporation offering to sell or dispose of the same, which said permit
 37 shall be in substantially the following form:

38 North Carolina

39 _____ County

40 I, _____, ~~Clerk of the Superior Court~~sheriff of said county, do hereby
 41 certify that _____, whose place of residence is _____ Street in
 42 _____ (or) in _____ Township in _____ County,
 43 North Carolina, having this day satisfied me that the possession of a pistol suitable for
 44 firing blank cartridges will be used only for lawful purposes, a permit is therefore given

1 said _____ to purchase said pistol from any person, firm or corporation
 2 authorized to dispose of the same, this _____ day of _____, _____.

3 _____
 4 Clerk of Superior Court Sheriff

5 The ~~clerk~~ sheriff shall charge for ~~his~~ the sheriff's services, upon issuing such permit,
 6 a fee of fifty cents (50¢)."

7 **SECTION 6.** G.S. 20-158(b)(2) reads as rewritten:

8 "(2) ~~Approaching with traffic signal traffic signal the approaching~~

9 a. When a ~~steady or strobe beam stoplight~~ steady-beam traffic
 10 signal is emitting a red light controlling traffic ~~passing through~~
 11 approaching an intersection, an approaching vehicle facing the
 12 red light shall come to a stop and shall not enter the
 13 intersection. After coming to a complete stop and unless
 14 prohibited by an appropriate sign, that approaching vehicle may
 15 make a right turn.

16 b. Any vehicle that turns right under this subdivision shall yield
 17 the right-of-way to:

- 18 1. Other traffic and pedestrians using the intersection; and
- 19 2. Pedestrians who are moving towards the intersection,
 20 who are in reasonably close proximity to the intersection,
 21 and who are preparing to cross in front of the traffic that
 22 is required to stop at the red light.

23 c. Failure to yield to a pedestrian under this subdivision shall be
 24 an infraction, and the court may assess a penalty of not more
 25 than five hundred dollars (\$500.00) and not less than one
 26 hundred dollars (\$100.00).

27 d. The Department of Transportation shall collect data regarding
 28 the number of individuals who are found responsible for
 29 violations of sub-subdivision b. of this subdivision and the
 30 number of pedestrians who are involved in accidents at
 31 intersections because of a driver's failure to yield the
 32 right-of-way while turning right at a red light. The data shall
 33 include information regarding the number of disabled
 34 pedestrians, including individuals with visual or
 35 mobility-related disabilities, who are involved in right turn on
 36 red accidents. The Department shall report the data annually to
 37 the Joint Legislative Transportation Oversight Committee
 38 beginning January 1, 2006."

39 **SECTION 7.** G.S. 58-31-66(b) reads as rewritten:

40 "(b) (1) Repealed by Session Laws 2004-203, s. 74(b), effective October 1,
 41 2004.

42 ~~(2)~~ because".

43 **SECTION 8.** G.S. 66-58(b)(13a) is repealed.

44 **SECTION 9.** G.S. 95-265(a)(2)b. reads as rewritten:

1 "b. The complainant certified to the court that there is good cause
2 to grant the remedy because the harm that the remedy is
3 intended to prevent would ~~like~~ likely occur if the respondent
4 were given any prior notice of the complainant's efforts to
5 obtain judicial relief."

6 **SECTION 10.** G.S. 120-231(b) reads as rewritten:

7 "(b) The Committee may consult with the State Chief Information Officer on
8 statewide technology strategies and initiatives and review all legislative proposals and
9 other recommendations of the State Chief Information Officer.
10 ~~Office of Information Technology Services".~~

11 **SECTION 11.** G.S. 126-5(e) reads as rewritten:

12 "(e) An exempt employee may be transferred, demoted, or separated from his or
13 her position by the department head authorized to designate the exempt position except:

- 14 (1) When an employee who has the minimum service requirements
15 described in ~~subsection (e)(1) above~~ G.S. 126-1.1 but less than 10
16 years of cumulative service in subject positions prior to placement in
17 an exempt position is removed from an exempt position, for reasons
18 other than just cause, the employee shall have priority to any position
19 that becomes available for which the employee is qualified, according
20 to rules and regulations regulating and defining priority as
21 promulgated by the State Personnel Commission; or
22 (2) When an employee who has 10 years or more cumulative service,
23 including the immediately preceding 12 months, in subject positions
24 prior to placement in an exempt position is removed from an exempt
25 position, for reasons other than just cause, the employee shall be
26 reassigned to a subject position within the same department or agency,
27 or if necessary within another agency, and within a 35 mile radius of
28 the exempt position, at the same grade and salary, including all
29 across-the-board increases since placement in the position designated
30 as exempt, as his most recent subject position."

31 **SECTION 12.** G.S. 126-14.4(g) reads as rewritten:

32 "(g) A career State employee with:

- 33 (1) Less than 10 years of service who was placed in an exempt managerial
34 position, as defined by G.S. 126-5(b)(2), shall be given priority
35 consideration for a position at the same salary grade equal to that held
36 in the most recent position ~~prior to the promotion~~ before being placed
37 in the exempt managerial position if he or she has to vacate because of
38 violation of G.S. 126-14.2.
39 (2) 10 or more years of service who was placed in an exempt managerial
40 position, as defined by G.S. 126-5(b)(2), shall be placed in a
41 comparable position at the same grade and salary equal to that held in
42 the most recent position ~~prior to the promotion~~ before being placed in
43 the exempt managerial position if he or she had to vacate because of
44 violation of G.S. 126-14.2."

1 **SECTION 13.** G.S. 126-15.1 reads as rewritten:

2 "**§ 126-15.1. Probationary State employee defined.**

3 As used in this Article, "probationary State employee" means a State employee who
4 is exempt from the Personnel Act only because he has not been continuously employed
5 by the State for the period required by ~~G.S. 126-5(e)~~. G.S. 126-1.1."

6 **SECTION 14.** G.S. 135-4A is recodified as G.S. 135-4.1.

7 **SECTION 15.** G.S. 143B-405 reads as rewritten:

8 "**§ 143B-405. North Carolina State Commission of Indian Affairs – purposes for
9 creation.**

10 ~~The purposes of the Commission shall be~~The purposes of the Commission shall be
11 as follows:

- 12 (1) To deal fairly and effectively with Indian affairs.
- 13 (2) To bring local, State, and federal resources into focus for the
14 implementation or continuation of meaningful programs for Indian
15 citizens of the State of North Carolina.
- 16 (3) To provide aid and protection for Indians as needs are demonstrated; to
17 prevent undue hardships.
- 18 (4) To hold land in trust for the benefit of State-recognized Indian tribes.
19 This subdivision shall not apply to federally recognized Indian tribes.
- 20 (5) To assist Indian communities in social and economic development.
- 21 (6) To promote recognition of and the right of Indians to pursue cultural
22 and religious traditions considered by them to be sacred and
23 meaningful to Native Americans."

24 **SECTION 16.** G.S. 153A-129 reads as rewritten:

25 "**§ 153A-129. Firearms.**

26 A county may by ordinance regulate, restrict, or prohibit the discharge of firearms at
27 any time or place except when used to take birds or animals pursuant to Chapter 113,
28 Subchapter ~~III~~, IV, when used in defense of person or property, or when used pursuant to
29 lawful directions of law-enforcement officers. A county may also regulate the display of
30 firearms on the public roads, sidewalks, alleys, or other public property. This section
31 does not limit a county's authority to take action under Chapter 14, Article 36A."

32 **SECTION 17.(a)** G.S. 160A-37(f1) reads as rewritten:

33 "(f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
34 annexation ordinance includes agricultural land, horticultural land, or forestland that
35 meets either of the conditions listed below on the effective date of annexation, then the
36 annexation becomes effective as to that property pursuant to subsection (f2) of this
37 section:

- 38 (1) ~~Land that~~The land is being taxed at present-use value pursuant to
39 G.S. 105-277.4.
- 40 (2) ~~Land that~~The land meets both of the following conditions:
 - 41 a. On the date of the resolution of intent for annexation it was
42 being used for actual production and is eligible for present-use
43 value taxation under G.S. 105-277.4, but the land ~~has~~ had not

1 been in use for actual production for the required time under
2 G.S. 105-277.3.

- 3 b. The assessor for the county where the land subject to
4 annexation is located has certified to the city that the land meets
5 the requirements of this subdivision."

6 **SECTION 17.(b)** G.S. 160A-37(f2) reads as rewritten:

7 "(f2) Effective Date of Annexation for Certain Property. – Annexation of property
8 subject to annexation under subsection (f1) of this section becomes effective as
9 provided in this ~~subsection~~subsection:

- 10 (1) Upon the effective date of the annexation ordinance, the property is
11 considered part of the city only (i) for the purpose of establishing city
12 boundaries for additional annexations pursuant to this Article and (ii)
13 for the exercise of city authority pursuant to Article 19 of this Chapter.
14 (2) For all other purposes, the annexation becomes effective as to each
15 tract of the property or part thereof on the last day of the month in
16 which that tract or part thereof becomes ineligible for classification
17 pursuant to G.S. 105-277.4 or no longer meets the requirements of
18 subdivision (f1)(2) of this section. Until annexation of a tract or a part
19 of a tract becomes effective pursuant to this subdivision, the tract or
20 part of a tract is not subject to taxation by the city under Article 12 of
21 Chapter 105 of the General Statutes nor is the tract or part of a tract
22 entitled to services provided by the city."

23 **SECTION 17.(c)** G.S. 160A-37(h) reads as rewritten:

24 "(h) Remedies for Failure to Provide Services. – If, not earlier than one year from
25 the effective date of annexation, and not later than 15 months from the effective date of
26 annexation, any person owning property in the annexed territory shall believe that the
27 municipality has not followed through on its service plans adopted under the provisions
28 of G.S. 160A-35(3) and ~~160A-37(e), such subsection (e) of this section,~~ the person may
29 apply for a writ of mandamus under the provisions of Article 40, Chapter 1 of the
30 General Statutes. Relief may be granted by the judge of superior court

- 31 (1) If the municipality has not provided the services set forth in its plan
32 submitted under the provisions of G.S. 160A-35(3)a on substantially
33 the same basis and in the same manner as such services were provided
34 within the rest of the municipality prior to the effective date of
35 annexation, and
36 (2) If at the time the writ is sought such services set forth in the plan
37 submitted under the provisions of G.S. 160A-35(3)a are still being
38 provided on substantially the same basis and in the same manner as on
39 the date of annexation of the municipality.

40 Relief may also be granted by the judge of superior court

- 41 (1) If the plans submitted under the provisions of ~~G.S. 160A-35(3)e~~
42 G.S. 160A-35(3)b. require the construction of major trunk water mains
43 and sewer outfall lines and
44 (2) If contracts for such construction have not yet been let.

1 If a writ is issued, costs in the action, including a reasonable attorney's fee for such
2 aggrieved person, shall be charged to the municipality."

3 **SECTION 18.** G.S. 160A-49(f2) reads as rewritten:

4 "(f2) Effective Date of Annexation for Certain Property. – Annexation of property
5 subject to annexation under subsection (f1) of this section shall become effective:

6 (1) Upon the effective date of the annexation ordinance, the property is
7 considered part of the city only (i) for the purpose of establishing city
8 boundaries for additional annexations pursuant to this Article and (ii)
9 for the exercise of city authority pursuant to Article 19 of this Chapter.

10 (2) For all other purposes, the annexation becomes effective as to each
11 tract of such property or part thereof on the last day of the month in
12 which that tract or part thereof becomes ineligible for classification
13 pursuant to ~~G.S. 105-227.4~~ G.S. 105-277.4 or no longer meets the
14 requirements of subdivision (f1)(2) of this section. Until annexation of
15 a tract or a part of a tract becomes effective pursuant to this
16 subdivision, the tract or part of a tract is not subject to taxation by the
17 city under Article 12 of Chapter 105 of the General Statutes nor is the
18 tract or part of a tract entitled to services provided by the city."

19 **SECTION 19.** G.S. 160A-215(g) as amended by S.L. 2005-16, S.L.
20 2005-46, S.L. 2005-49, S.L. 2005-220, and S.L. 2005-233, reads as rewritten:

21 "(g) This section applies only to Beech Mountain District W, to the Cities of
22 Gastonia, Goldsboro, Greensboro, High Point, Kings Mountain, Lexington, Lincolnton,
23 Lumberton, Monroe, Mount Airy, Shelby, Statesville, Washington, and Wilmington, to
24 the Towns of Beech Mountain, Blowing Rock, Carolina Beach, Carrboro, Franklin,
25 Jonesville, Kure Beach, ~~Jonesville~~,—Mooresville, North Topsail Beach, Selma,
26 Smithfield, St. Pauls, Wilkesboro, and Wrightsville Beach, and to the municipalities in
27 Avery and Brunswick Counties."

28 **SECTION 20.** G.S. 163-128(a) reads as rewritten:

29 "(a) Each county shall be divided into a convenient number of precincts for the
30 purpose of voting. Upon a resolution adopted by the county board of elections and
31 approved by the ~~Secretary Director~~ Executive Director of the State Board of Elections
32 voters from a given precinct may be temporarily transferred, for the purpose of voting,
33 to an adjacent precinct. Any such transfers shall be for the period of time equal only to
34 the term of office of the county board of elections making such transfer. When such a
35 resolution has been adopted by the county board of elections to assign voters from more
36 than one precinct to the same precinct, then the county board of elections shall maintain
37 separate registration and voting records, consistent with the procedure prescribed by the
38 State Board of Elections, so as to properly identify the precinct in which such voters
39 reside. The polling place for a precinct shall be located within the precinct or on a lot or
40 tract adjoining the precinct.

41 Except as provided by Article 12A of this Chapter, the county board of elections
42 shall have power from time to time, by resolution, to establish, alter, discontinue, or
43 create such new election precincts or voting places as it may deem expedient. Upon
44 adoption of a resolution establishing, altering, discontinuing, or creating a precinct or

1 voting place, the board shall give 45 days' notice thereof prior to the next primary or
 2 election. Notice shall be given by advertisement in a newspaper having general
 3 circulation in the county, by posting a copy of the resolution at the courthouse door and
 4 at the office of the county board of elections, and by mailing a copy of the resolution to
 5 the chairman of every political party in the county. Notice may additionally be made on
 6 a radio or television station or both, but such notice shall be in addition to the
 7 newspaper and other required notice. No later than 30 days prior to the primary or
 8 election, the county board of elections shall mail a notice of precinct change to each
 9 registered voter who as a result of the change will be assigned to a different voting
 10 place."

11 **SECTION 21.** G.S. 163-296 reads as rewritten:

12 **"§ 163-296. Nomination by petition.**

13 In cities conducting partisan elections, any qualified voter who seeks to have his
 14 name printed on the regular municipal election ballot as an unaffiliated candidate may
 15 do so in the manner provided in G.S. 163-122, except that the petitions and affidavits
 16 shall be filed not later than 12:00 noon on the Friday preceding the seventh Saturday
 17 before the election, and the petitions shall be signed by a number of qualified voters of
 18 the municipality equal to at least four percent (4%) of the whole number of voters
 19 qualified to vote in the municipal election according to the voter registration records of
 20 the State Board of Elections as of January 1 of the year in which the general municipal
 21 election is held. A person whose name appeared on the ballot in a primary election is
 22 not eligible to have his name placed on the regular municipal election ballot as an
 23 unaffiliated candidate for the same office in that year. The Board of Elections shall
 24 examine and verify the signatures on the petition, and shall certify only the names of
 25 signers who are found to be qualified registered voters in the municipality. Provided that
 26 in the case where a qualified voter seeks to have his name printed on the regular
 27 municipal election ballot as an unaffiliated candidate for election from an election
 28 district within the municipality, the petition shall be signed by four percent (4%) of the
 29 voters qualified to vote for that office."

30 **SECTION 22.(a)** Section 18.2(e) of S.L. 2004-124 reads as rewritten:

31 **"SECTION 18.2.(e).** ~~The~~ With the exception of G.S. 143-655, the word
 32 "Commission" shall be replaced with "Division" every place that word appears in
 33 Article 68 of Chapter 143 of the General Statutes."

34 **SECTION 22.(b)** G.S. 143-655 reads as rewritten:

35 **"§ 143-655. Fees; State Boxing ~~Commission~~ Revenue Account.**

36 (a) License Fees. – The ~~Commission~~ Division shall collect the following license
 37 fees:

39	Announcer	\$50.00
40	Contestant	\$25.00
41	Judge	\$50.00
42	Manager	\$100.00
43	Matchmaker	\$200.00
44	Promoter	\$300.00

1	Referee	\$50.00
2	Timekeeper	\$50.00
3	Second	\$25.00.

4 The annual license renewal fees shall not exceed the initial license fees.

5 (b) Permit Fees. – The ~~Commission~~ Division may establish a fee schedule for
 6 permits issued under this Article. The fees may vary depending on the seating capacity
 7 of the facility to be used to present a match. The fee may not exceed the following
 8 amounts:

9		
10	Seating Capacity	Fee Amount
11	Less than 2,000	\$100.00
12	2,000 – 5,000	\$200.00
13	Over 5,000	\$300.00.

14 (c) State Boxing ~~Commission~~–Revenue Account. – There is created the State
 15 Boxing ~~Commission~~–Revenue Account within the Department of Crime Control and
 16 Public Safety. Monies [moneys] collected pursuant to the provisions of this Article shall
 17 be credited to the Account and applied to the administration of the Article."

18 **SECTION 22.(c)** G.S. 143-651(23b) reads as rewritten:

19 "(23b) Sanctioned amateur match. – Any boxing or kickboxing match
 20 regulated by an amateur sports organization that has been recognized
 21 and approved by the Division.
 22 ~~North Carolina Boxing Commission."~~

23 **SECTION 23.** The introductory language of Section 15 of S.L. 2004-127
 24 reads as rewritten:

25 "**SECTION 15. G.S. 163-278(9)**–G.S. 163-278.6(9) reads as rewritten:".

26 **SECTION 24.** The introductory language of Section 27(e) of S.L. 2004-199
 27 reads as rewritten:

28 "**SECTION 27.(e)** ~~G.S. 106-577~~–G.S. 106-557 reads as rewritten:".

29 **SECTION 25.** Section 44 of S.L. 2004-203 is repealed.

30 **SECTION 26.** Section 68 of S.L. 2004-203 is repealed.

31 **SECTION 27.** The introductory language of Section 1 of S.L. 2005-5 reads
 32 as rewritten:

33 "**SECTION 1.** Section 6 of Chapter 1191 of the 1957 Session Laws, as amended by
 34 Section 2 of Chapter 292 of the 1985 Session Laws, reads as rewritten:"

35
 36 **PART II. OTHER CHANGES**

37 **SECTION 28.(a)** G.S. 7A-38.3B, as enacted by Section 8 of S.L. 2005-150,
 38 is recodified as G.S. 7A-38.3C.

39 **SECTION 28.(b)** G.S. 160A-331.1, as enacted by Section 3 of S.L.
 40 2005-150, reads as rewritten:

41 "**§ 160A-331.1. Construction of lines between June 1, 2005, and May 31, 2007.**

42 During the period beginning June 1, 2005, and ending May 31, 2007, a city shall not
 43 construct or extend an electric distribution line outside of its corporate limits as of June
 44 1, 2005, in territory assigned to an electric membership corporation by the North

1 Carolina Utilities Commission without the written consent of the electric membership
2 corporation. Provided, however, that the consent of an electric membership corporation
3 shall not be required in connection with the proposed construction of an electric
4 distribution line solely to serve a facility owned by a city. The electric membership
5 corporation shall give its consent unless the electric membership corporation, in good
6 faith, believes that the construction of the electric distribution line is not necessary to
7 satisfy the reasonable needs of the public for the delivery of an adequate and reliable
8 supply of electric energy and that, when compared with reasonable, alternative courses
9 of action and locations, construction of the electric distribution line in the proposed
10 location is not reasonable, preferred, in the public interest, and the most economical and
11 practically feasible route to deliver electric energy in accordance with prudent utilities
12 practice. Any dispute concerning the failure of the electric membership corporation to
13 give its written consent shall be submitted to prelitigation mediation in accordance with
14 ~~the provisions of G.S. 7A-38.3B.~~G.S. 7A-38.3C."

15 **SECTION 28.(c)** G.S. 160A-331.2(b), as enacted by Section 3 of S.L.
16 2005-150, reads as rewritten:

17 "(b) During the period beginning June 1, 2005, and ending May 31, 2007, electric
18 membership corporations and cities that own and maintain their own electric
19 distribution lines shall undertake good faith negotiations concerning the provision of
20 future electric services within areas outside of the corporate limits of such cities as of
21 June 1, 2005, and the development of agreements relating to the provision of electric
22 services, the location of lines, and the areas within which electric services may be
23 provided by such electric suppliers. To the extent such negotiations produce any
24 agreements between the affected electric suppliers, such agreements shall be submitted
25 to the North Carolina Utilities Commission for approval under this section. To the
26 extent such negotiations do not produce an agreement and disputes among the suppliers
27 remain as of May 31, 2007, such disputes shall be resolved ~~pursuant to the provisions of~~
28 ~~G.S. 7A-38.3B(i).~~under G.S. 7A-38.3C(i)."

29 **SECTION 28.(d)** G.S. 117-10.3, as enacted by Section 7 of S.L. 2005-150,
30 reads as rewritten:

31 "**§ 117-10.3. Construction of lines between June 1, 2005, and May 31, 2007.**

32 During the period beginning June 1, 2005, and ending May 31, 2007, an electric
33 membership corporation shall not construct or extend an electric distribution line in
34 territory assigned to it by the North Carolina Utilities Commission without the written
35 consent of the municipality that owns and maintains its own electric system whose
36 corporate limits, as of June 1, 2005, are within three miles of any part of the line or
37 extension proposed to be constructed by the electric membership corporation. The
38 municipality shall give its consent unless the municipality, in good faith, believes that
39 the construction or extension of the electric distribution line is not necessary to satisfy
40 the reasonable needs of the public for the delivery of an adequate and reliable supply of
41 electric energy and that, when compared with reasonable, alternative courses of action
42 and locations, construction of that part of the electric distribution line in the proposed
43 location within three miles of the city is not reasonable, preferred, in the public interest,
44 and the most economical and practically feasible route to deliver electric energy in

1 accordance with prudent utilities practice. Any dispute concerning the failure of the
2 municipality to give its written consent shall be submitted to prelitigation mediation in
3 accordance with the provisions of ~~G.S. 7A-38.3B~~. G.S. 7A-38.3C."

4 **SECTION 29.(a)** G.S. 7A-177(a) reads as rewritten:

5 "(a) Within six months of taking the oath of office as a magistrate for the first
6 time, a magistrate is required to attend and satisfactorily complete a course of basic
7 training of at least 40 hours in the civil and criminal duties of a magistrate. The
8 Administrative Office of the Courts is authorized to contract with the ~~Institute of~~
9 ~~Government~~ School of Government at the University of North Carolina at Chapel Hill
10 or with any other qualified educational organization to conduct this training, and to
11 reimburse magistrates for travel and subsistence expenses incurred in taking such
12 training."

13 **SECTION 29.(b)** G.S. 7A-413(a)(4) reads as rewritten:

14 "(a) The Conference may:

15

16 (4) Cooperate with the Administrative Office of the Courts and the
17 ~~Institute of Government~~ School of Government at the University of
18 North Carolina at Chapel Hill concerning education and training
19 programs for prosecutors and staff."

20 **SECTION 29.(c)** G.S. 17C-3(a)(5) reads as rewritten:

21 "(a) There is established the North Carolina Criminal Justice Education and
22 Training Standards Commission, hereinafter called "the Commission." The Commission
23 shall be composed of 33 members as follows:

24 ...

25 (5) Citizens and Others. – The President of The University of North
26 Carolina; the ~~Director of the Institute of Government;~~ Dean of the
27 School of Government at the University of North Carolina at Chapel
28 Hill; and two citizens, one of whom shall be selected by the Governor
29 and one of whom shall be selected by the Attorney General. The
30 General Assembly shall appoint four persons, two upon the
31 recommendation of the Speaker of the House of Representatives and
32 two upon the recommendation of the President Pro Tempore of the
33 Senate. Appointments by the General Assembly shall be made in
34 accordance with G.S. 120-122. Appointments by the General
35 Assembly shall be for two-year terms to conclude on June 30th in
36 odd-numbered years.

37"

38 **SECTION 29.(d)** G.S. 17C-3(b) reads as rewritten:

39 "(b) The members shall be appointed for staggered terms. The initial appointments
40 shall be made prior to September 1, 1983, and the appointees shall hold office until July
41 1 of the year in which their respective terms expire and until their successors are
42 appointed and qualified as provided hereafter:

43 For the terms of one year: one member from subdivision (1) of subsection (a) of this
44 section, serving as a police chief; three members from subdivision (2) of subsection (a)

1 of this section, one serving as a police official, and two criminal justice officers; one
2 member from subdivision (4) of subsection (a) of this section, appointed by the North
3 Carolina Law-Enforcement Training Officers' Association; and two members from
4 subdivision (5) of subsection (a) of this section, one appointed by the Governor and one
5 appointed by the Attorney General.

6 For the terms of two years: one member from subdivision (1) of subsection (a) of
7 this section, serving as a police chief; one member from subdivision (2) of subsection
8 (a) of this section, serving as a police official; and two members from subdivision (4) of
9 subsection (a) of this section, one appointed by the League of Municipalities and one
10 appointed by the North Carolina Association of District Attorneys.

11 For the terms of three years: two members from subdivision (1) of subsection (a) of
12 this section, one police chief appointed by the North Carolina Association of Chiefs of
13 Police and one police chief appointed by the Governor; one member from subdivision
14 (2) of subsection (a) of this section, serving as a police official; and three members from
15 subdivision (4) of subsection (a) of this section, one appointed by the North Carolina
16 Law-Enforcement Women's Association, one appointed by the North Carolina Criminal
17 Justice Association, and one appointed by the North State Law-Enforcement Officers'
18 Association.

19 Thereafter, as the term of each member expires, his successor shall be appointed for
20 a term of three years. Notwithstanding the appointments for a term of years, each
21 member shall serve at the will of the appointing authority.

22 The Attorney General, the Secretary of Crime Control and Public Safety, the
23 Secretary of Correction, the President of The University of North Carolina, the ~~Director~~
24 ~~of the Institute of Government~~, Dean of the School of Government at the University of
25 North Carolina at Chapel Hill, the President of the North Carolina Community Colleges
26 System, and the Secretary of Juvenile Justice and Delinquency Prevention shall be
27 continuing members of the Commission during their tenure. These members of the
28 Commission shall serve ex officio and shall perform their duties on the Commission in
29 addition to the other duties of their offices. The ex officio members may elect to serve
30 personally at any or all meetings of the Commission or may designate, in writing, one
31 member of their respective office, department, university or agency to represent and
32 vote for them on the Commission at all meetings the ex officio members are unable to
33 attend.

34 Vacancies in the Commission occurring for any reason shall be filled, for the
35 unexpired term, by the authority making the original appointment of the person causing
36 the vacancy. A vacancy may be created by removal of a Commission member by
37 majority vote of the Commission for misconduct, incompetence, or neglect of duty. A
38 Commission member may be removed only pursuant to a hearing, after notice, at which
39 the member subject to removal has an opportunity to be heard."

40 **SECTION 29.(e)** G.S. 17E-3(a)(4) reads as rewritten:

41 "(a) There is hereby established the North Carolina Sheriffs' Education and
42 Training Standards Commission. The Commission shall be composed of 17 members as
43 follows:

44 ...

- 1 (4) Others. – The President of the Department of Community Colleges or
2 ~~his~~ ~~the President's~~ designee and the ~~Director of the Institute of~~
3 ~~Government~~ ~~Dean of the School of Government at the University of~~
4 ~~North Carolina at Chapel Hill~~ or ~~his~~ ~~the Dean's~~ designee shall be ex
5 officio, nonvoting members of the Commission."

6 **SECTION 29.(f)** G.S. 105-501 reads as rewritten:

7 **"§ 105-501. Distribution of additional taxes.**

8 The Secretary shall, on a monthly basis, allocate the net proceeds of the additional
9 one-half percent (1/2%) sales and use taxes levied under this Article to the taxing
10 counties on a per capita basis according to the most recent annual population estimates
11 certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the
12 amount allocated to each county as provided in G.S. 105-486(b). The amount allocated
13 to each taxing county shall then be divided among the county and the municipalities
14 located in the county in accordance with the method by which the one percent (1%)
15 sales and use taxes levied in that county pursuant to Article 39 of this Chapter or
16 Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive
17 any funds under this section if it was incorporated with an effective date of on or after
18 January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No
19 municipality may receive any funds under this section, incorporated with an effective
20 date on or after January 1, 2000, unless a majority of the mileage of its streets are open
21 to the public. The previous sentence becomes effective with respect to distribution of
22 funds on or after July 1, 1999.

23 In determining the net proceeds of the tax to be distributed, the Secretary shall
24 deduct from the collections to be allocated an amount equal to one-twelfth of the costs
25 during the preceding fiscal year of:

- 26 (1) The Department of Revenue in performing the duties imposed by
27 G.S. 105-275.2 and by Article 15 of this Chapter.
28 (1a) Seventy percent (70%) of the expenses of the Department of Revenue
29 in performing the duties imposed by Article 2D of this Chapter.
30 (2) The Property Tax Commission.
31 (3) The ~~Institute of Government~~ School of Government at the University
32 of North Carolina at Chapel Hill in operating a training program in
33 property tax appraisal and assessment.
34 (4) The personnel and operations provided by the Department of State
35 Treasurer for the Local Government Commission."

36 **SECTION 29.(g)** G.S. 113A-4(3) reads as rewritten:

37 **"§ 113A-4. Cooperation of agencies; reports; availability of information.**

38 The General Assembly authorizes and directs that, to the fullest extent possible:

- 39 ...
40 (3) The Governor, and any State agency charged with duties under this
41 Article, may call upon any of the public institutions of higher
42 education of this State for assistance in developing plans and
43 procedures under this Article and in meeting the requirements of this
44 Article, including without limitation any of the following units of the

1 University of North Carolina: the Water Resources Research Institute,
2 the Institute for Environmental Studies, the Triangle Universities
3 Consortium on Air Pollution, and the ~~Institute of Government, School~~
4 of Government at the University of North Carolina at Chapel Hill."

5 **SECTION 29.(h)** G.S. 115C-50 reads as rewritten:

6 **"§ 115C-50. Training of board members.**

7 All members of local boards of education shall receive a minimum of 12 clock hours
8 of training annually. The training shall include but not be limited to public school law,
9 public school finance, and duties and responsibilities of local boards of education. The
10 training may be provided by the North Carolina School Boards Association, the ~~Institute~~
11 of Government, School of Government at the University of North Carolina at Chapel
12 Hill, or other qualified sources at the choice of the local board of education."

13 **SECTION 29.(i)** G.S. 120-129 reads as rewritten:

14 **"§ 120-129. Definitions.**

15 As used in this Article:

- 16 (1) "Document" means all records, papers, letters, maps, books,
17 photographs, films, sound recordings, magnetic or other tapes,
18 electronic data-processing records, artifacts, or other documentary
19 material regardless of physical form or characteristics.
- 20 (1a) "Legislative commission" means any commission or committee which
21 the Legislative Services Commission is directed or authorized to staff
22 by law or resolution and which it does, in fact, staff.
- 23 (2) "Legislative employee" means employees and officers of the General
24 Assembly, consultants and counsel to members and committees of
25 either house of the General Assembly or of legislative commissions
26 who are paid by State funds, and employees of the ~~Institute of~~
27 Government, School of Government at the University of North
28 Carolina at Chapel Hill; but does not mean legislators and members of
29 the Council of State.
- 30 (3) "Legislator" means a member-elect, member-designate, or member of
31 the North Carolina Senate or House of Representatives."

32 **SECTION 29.(j)** G.S. 120-161 reads as rewritten:

33 **"§ 120-161. Facilities and staff.**

34 The Commission may meet in the Legislative Building or the Legislative Office
35 Building. Staff for the Commission shall be provided by the Legislative Services
36 Commission. The Commission may contract with the ~~Institute of Government, School~~
37 of Government at the University of North Carolina at Chapel Hill, the Local
38 Government Commission, the Department of Environment and Natural Resources, or
39 other agencies as may be necessary in completing any required studies, within the funds
40 appropriated to the Commission."

41 **SECTION 29.(k)** G.S. 122C-412.2 reads as rewritten:

42 **"§ 122C-412.2. Planning Council; planning responsibility.**

43 The Butner Planning Council shall, in consultation with the Department of Health
44 and Human Services, the Community Assistance Division of the Department of

1 Commerce, the ~~Institute of Government~~, School of Government at the University of
2 North Carolina at Chapel Hill, and other State and local agencies, prepare a long-range
3 plan for the future development of the Camp Butner Reservation. This plan shall
4 provide a blueprint for the development of the Reservation and the adjoining areas of
5 Granville, Durham, and Person Counties and shall consider issues such as:

- 6 (1) The possible incorporation of a municipality on the Camp Butner
7 Reservation;
- 8 (2) The provision of housing, public safety services, water and sewer
9 services, school facilities, and park and recreational services for the
10 increasing Butner population;
- 11 (3) The possible transfer of State-owned property for the future
12 development in and around Butner;
- 13 (4) The growth and development of business and industrial areas within
14 the Camp Butner Reservation, including planning and zoning issues;
15 and
- 16 (5) How to maximize the utility of the Camp Butner Reservation to the
17 State of North Carolina as a site for future State facilities and still meet
18 the needs and improve the quality of life for the residents of Butner.

19 Copies of the long-range plan shall be submitted to the Secretary of Health and
20 Human Services, the Joint Legislative Commission on Governmental Operations, the
21 Fiscal Research Division of the General Assembly, and to each member of the General
22 Assembly representing the area no later than December 31, 1998. The Department of
23 Health and Human Services, through the Butner Town Manager, shall provide
24 necessary financial and personnel support for the preparation of this plan."

25 **SECTION 29.(l)** G.S. 143-64.24 reads as rewritten:

26 **"§ 143-64.24. Applicability of Article.**

27 This Article shall not apply to the General Assembly, special study commissions, the
28 Research Triangle Institute, or the ~~Institute of Government~~, School of Government at
29 the University of North Carolina at Chapel Hill, nor shall it apply to attorneys employed
30 by the North Carolina Department of Justice, or physicians or doctors performing
31 contractual services for any State agency. This Article shall not apply to Independent
32 Review Organizations selected by the Commissioner of Insurance pursuant to
33 G.S. 58-50-85."

34 **SECTION 29.(m)** G.S. 143-151.9 reads as rewritten:

35 **"§ 143-151.9. North Carolina Code Officials Qualification Board established;**
36 **members; terms; vacancies.**

37 (a) There is hereby established the North Carolina Code Officials Qualification
38 Board in the Department of Insurance. The Board shall be composed of 20 members
39 appointed as follows:

- 40 (1) One member who is a city or county manager;
- 41 (2) Two members, one of whom is an elected official representing a city
42 over 5,000 population and one of whom is an elected official
43 representing a city under 5,000 population;

- 1 (3) Two members, one of whom is an elected official representing a
2 county over 40,000 population and one of whom is an elected official
3 representing a county under 40,000 population;
- 4 (4) Two members serving as building officials with the responsibility for
5 administering building, plumbing, electrical and heating codes, one of
6 whom serves a county and one of whom serves a city;
- 7 (5) One member who is a registered architect;
- 8 (6) One member who is a registered engineer;
- 9 (7) Two members who are licensed general contractors, at least one of
10 whom specializes in residential construction;
- 11 (8) One member who is a licensed electrical contractor;
- 12 (9) One member who is a licensed plumbing or heating contractor;
- 13 (10) One member selected from the faculty of the North Carolina State
14 University School of Engineering and one member selected from the
15 faculty of the School of Engineering of the North Carolina
16 Agricultural and Technical State University;
- 17 (11) One member selected from the faculty of the ~~Institute of Government;~~
18 School of Government at the University of North Carolina at Chapel
19 Hill;
- 20 (12) One member selected from the Community Colleges System Office;
- 21 (13) One member selected from the Division of Engineering and Building
22 Codes in the Department of Insurance; and,
- 23 (14) One member who is a local government fire prevention inspector and
24 one member who is a citizen of the State.

25 The various categories shall be appointed as follows: (1), (2), (3), and (14) by the
26 Governor; (4), (5), and (6) by the General Assembly upon the recommendation of the
27 President Pro Tempore in accordance with G.S. 120-121; (7), (8), and (9) by the
28 General Assembly upon the recommendation of the Speaker of the House of
29 Representatives in accordance with G.S. 120-121; (10) by the deans of the respective
30 schools of engineering of the named universities; (11) by the ~~Director of the Institute of~~
31 ~~Government;~~ Dean of the School of Government at the University of North Carolina at
32 Chapel Hill; (12) by the President of the Community College System; and (13) by the
33 Commissioner of Insurance."

34 **SECTION 29.(n)** G.S. 143B-350(m) reads as rewritten:

35 "(m) Ethics and Board Duties Education. – The Board shall institute by January 1,
36 1999, and conduct annually an education program on ethics and on the duties and
37 responsibilities of Board members. The training session shall be comprehensive in
38 nature and shall include input from the ~~Institute of Government,~~ School of Government
39 at the University of North Carolina at Chapel Hill, the North Carolina Board of Ethics,
40 the Attorney General's Office, the University of North Carolina Highway Safety
41 Research Center, and senior career employees of the various divisions of the
42 Department. This program shall include an initial orientation for new members of the
43 Board and continuing education programs for Board members at least once each year."

44 **SECTION 29.(o)** G.S. 143B-394.15(c)(4) reads as rewritten:

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

- ...
(4) The following persons or their designees, ex officio:
a. The Governor.
b. The Lieutenant Governor.
c. The Attorney General.
d. The Secretary of the Department of Administration.
e. The Secretary of the Department of Crime Control and Public Safety.
f. The Superintendent of Public Instruction.
g. The Secretary of the Department of Correction.
h. The Secretary of the Department of Health and Human Services.
i. The Director of the Office of State Personnel.
j. The Executive Director of the North Carolina Council for Women.
k. The Director of the Institute of Government. Dean of the School of Government at the University of North Carolina at Chapel Hill.
l. The Chairman of the Governor's Crime Commission."

SECTION 29.(p) G.S. 147-54 reads as rewritten:

§ 147-54. Printing, distribution and sale of the North Carolina Manual.

The Secretary of State shall have printed biennially for distribution and sale, two thousand three hundred fifty (2,350) copies of the North Carolina Manual, and shall make distribution to the State agencies, individuals, institutions and others as herein set forth.

NORTH CAROLINA STATE GOVERNMENT:

Members of the General Assembly 1 ea.
Officers of the General Assembly 1 ea.
Offices of the Clerk of each House of the General Assembly 1 ea.
Legislative Services Officer 1
Legislative Library 6
Members of the Council of State 2 ea.
Appointed Secretaries of Executive Departments 2 ea.
Personnel of the Department of the Secretary of State 1 ea.
State Board of Elections 2
Divisions of Archives and History, Director 1
Search Room 3
Publications Section 2
State Library 10
Libraries within State Agencies 1 ea.
Justices of the North Carolina Supreme Court 1 ea.
Judges of the North Carolina Court of Appeals 1 ea.

1	Judges of the North Carolina Superior Court	1 ea.
2	Supreme Court Library	12
3	Court of Appeals Library	2
4	Clerk of the Supreme Court	1
5	Clerk of the Court of Appeals	1
6	Reporter of the Supreme Court and Court of Appeals	1
7	Administrative Office of the Courts	5
8	NORTH CAROLINA EDUCATIONAL INSTITUTIONS:	
9	University of North Carolina System	
10	General Administration Offices	12
11	Chancellors of the Constituent Institutions	1 ea.
12	University of North Carolina – Chapel Hill Library	15
13	North Carolina State University Library	5
14	East Carolina University Library	5
15	North Carolina Central University Library	5
16	Appalachian State University Library	4
17	University of North Carolina – Charlotte Library	4
18	University of North Carolina – Greensboro Library	4
19	Western Carolina University Library	4
20	Other Constituent Institutions Libraries	3 ea.
21	North Carolina School of the Arts	2
22	Institute of Government	2
23	<u>University of North Carolina-Chapel Hill School of Government</u>	<u>2</u>
24	Community Colleges and Technical Institutes	2 ea.
25	Private Colleges and Universities	
26	Duke University Library	6
27	Wake Forest University	6
28	Campbell University Library	5
29	Davidson College Library	4
30	All other Libraries of Senior and Junior Colleges	2 ea.
31	Public and Private Schools containing grades 8-12	1 ea.
32	COUNTY GOVERNMENT:	
33	Clerks of Court	1 ea.
34	Registers of Deeds	1 ea.
35	Public Libraries of North Carolina	1 ea.
36	FEDERAL GOVERNMENT:	
37	President of the United States	1
38	North Carolina Members of the Presidential Cabinet	1 ea.
39	North Carolina Members of the United States Congress	2 ea.
40	Library of Congress	3
41	Resident Judges of the Federal Judiciary	
42	and United States Attorneys in North Carolina	1 ea.
43	Secretaries of State of the United States	
44	and Territories	1 ea.

1 After making the above distribution, the remainder shall be sold at the cost of
2 publication plus tax and postage and the proceeds from such sales deposited with the
3 State Treasurer for use by the Publications Division of the Secretary of State's Office to
4 defray the expense of publishing the North Carolina Manual. Libraries and educational
5 institutions not covered in the above distribution shall be entitled to a twenty percent
6 (20%) discount on the cost of any purchase(s)."

7 **SECTION 30.(a)** G.S. 9-10(b) reads as rewritten:

8 "(b) All summons served personally or by mail under this section or under
9 G.S. 9-11 shall inform the prospective juror that persons ~~65-72~~ years of age or older are
10 entitled to establish in writing exemption from jury service for good cause, shall contain
11 a statement for claiming such exemption and stating the cause and a place for the
12 prospective juror's signature, and shall state the mailing address of the clerk of superior
13 court and the date by which such request for exemption must be received."

14 **SECTION 30.(b)** This section becomes effective October 1, 2005, and
15 applies to persons summoned for jury service on or after that date.

16 **SECTION 31.** G.S. 14-269.2(h) reads as rewritten:

17 "(h) No person shall be guilty of a criminal violation of this section with regard to
18 the possession or carrying of a ~~firearm~~-weapon so long as both of the following apply:

- 19 (1) The person comes into possession of a weapon by taking or receiving
20 the weapon from another person or by finding the weapon.
- 21 (2) The person delivers the weapon, directly or indirectly, as soon as
22 practical to law enforcement authorities."

23 **SECTION 32.(a)** G.S. 14-404(a)(1), as amended by Section 4 of this act,
24 reads as rewritten:

25 "(a) Upon application, the sheriff shall issue the license or permit to a resident of
26 that county, unless the purpose of the permit is for collecting, in which case a sheriff can
27 issue a permit to a nonresident, when the sheriff has done all of the following:

- 28 (1) ~~Verified~~-Verified, before the issuance of a permit, by a criminal history
29 background investigation that it is not a violation of State or federal
30 law for the applicant to purchase, transfer, receive, or possess a
31 handgun. The sheriff shall determine the criminal and background
32 history of any applicant by accessing computerized criminal history
33 records as maintained by the State Bureau of Investigation and the
34 Federal Bureau of Investigation, by conducting a national criminal
35 history records check, by conducting a check through the National
36 Instant Criminal Background Check System (NICS), and by
37 conducting a criminal history check through the Administrative Office
38 of the Courts.
- 39 (2) Fully satisfied himself or herself by affidavits, oral evidence, or
40 otherwise, as to the good moral character of the applicant.
- 41 (3) Fully satisfied himself or herself that the applicant desires the
42 possession of the weapon mentioned for (i) the protection of the home,
43 business, person, family or property, (ii) target shooting, (iii)
44 collecting, or (iv) hunting."

1 **SECTION 32.(b)** G.S. 14-415.13(b) reads as rewritten:

2 "(b) The sheriff shall submit the fingerprints to the State Bureau of Investigation
3 for a records check of State and national databases. The State Bureau of Investigation
4 shall submit the fingerprints to the Federal Bureau of Investigation as necessary. The
5 sheriff shall determine the criminal and background history of an applicant also by
6 conducting a check through the National Instant Criminal Background Check System
7 (NICS). The cost of processing the set of fingerprints shall be charged to an applicant as
8 provided by G.S. 14-415.19."

9 **SECTION 33.** G.S. 15A-615(a) reads as rewritten:

10 "(a) After a finding of probable cause pursuant to the provisions of Article 30 of
11 Chapter 15A of the General Statutes or indictment for an offense that involves
12 nonconsensual vaginal, anal, or oral ~~intereourse,~~ intercourse; an offense that involves
13 vaginal, anal, or oral intercourse with a child 12 years old or ~~less,~~ less; or an offense
14 under G.S. 14-202.1 that involves vaginal, anal, or oral intercourse with a child less than
15 16 years old, the victim or the parent, guardian, or guardian ad litem of a minor victim
16 may request that a defendant be tested for the following sexually transmitted infections:

- 17 (1) Chlamydia;
- 18 (2) Gonorrhea;
- 19 (3) Hepatitis B;
- 20 (3a) Herpes;
- 21 (4) HIV; and
- 22 (5) Syphilis.

23 In the case of herpes, the defendant, pursuant to the provisions of this section, shall be
24 examined for oral and genital herpetic lesions and, if a suggestive but nondiagnostic
25 lesion is present, a culture for herpes shall be performed."

26 **SECTION 34.** G.S. 15A-1371(b) reads as rewritten:

27 "(b) (1), (2) Repealed by Session Laws 1993, c. 538, s. 22.

- 28 (3) Whenever the Post-Release Supervision and Parole Commission will
29 be considering for parole a prisoner serving a sentence of life
30 imprisonment the Commission must notify, at least 30 days in advance
31 of considering the parole, by first class mail at the last known address:
- 32 a. The prisoner;
 - 33 b. The district attorney of the district where the prisoner was
34 convicted;
 - 35 c. The head of the law enforcement agency that arrested the
36 ~~prisoner, if the head of the agency has requested in writing that~~
37 ~~he be notified;~~ prisoner and the sheriff of the county where the
38 crime occurred;
 - 39 d. Any of the victim's immediate family members who have
40 requested in writing to be notified; and
 - 41 e. Repealed by Session Laws 1993, c. 538, s. 22.
 - 42 f. As many newspapers of general circulation and other media in
43 the county where the defendant was convicted and if different,
44 in the county where the prisoner was charged, as reasonable.

1 The Post-Release Supervision and Parole Commission must
2 consider any information provided by any such parties before
3 consideration of parole. The Commission must also give the district
4 attorney, the head of the law enforcement agency who has requested in
5 writing to be notified, the victim, any member of the victim's
6 immediate family who has requested to be notified, and as many
7 newspapers of general circulation and other media in the county or
8 counties designated in sub-subdivision f. of this section as reasonable,
9 written notice of its decision within 10 days of that decision. The
10 Parole Commission shall not, however, include the name of any victim
11 in its notification to the newspapers and other media."

12 **SECTION 35.** G.S. 18B-500(a) reads as rewritten:

13 "(a) Appointment. – The Secretary of Crime Control and Public Safety shall
14 appoint alcohol law-enforcement agents and other enforcement personnel. The
15 Secretary of Crime Control and Public Safety may also appoint regular employees of
16 the Commission as alcohol law-enforcement agents. Alcohol law-enforcement agents
17 shall be designated as "alcohol law-enforcement agents". Persons serving as reserve
18 alcohol law-enforcement agents are considered employees of the Division of Alcohol
19 Law Enforcement for workers' compensation purposes while performing duties assigned
20 or approved by the Director of Alcohol Law Enforcement or the Director's designee."

21 **SECTION 35.5.** If House Bill 1136, 2005 Regular Session, becomes law,
22 then G.S. 20-85(b) reads as rewritten:

23 "(b) ~~The~~ Except as otherwise provided in subsection (a1) of this section, the fees
24 collected under subdivisions (a)(1) through (a)(9) of this section shall be credited to the
25 North Carolina Highway Trust Fund. The fees collected under subdivision (a)(10) of
26 this section shall be credited to the Highway Fund. Fifteen dollars (\$15.00) of each title
27 fee credited to the Trust Fund under subdivision (a)(1) shall be added to the amount
28 allocated for secondary roads under G.S. 136-176 and used in accordance with
29 G.S. 136-44.5."

30 **SECTION 36.(a)** G.S. 20-114.2, as enacted by Section 1 of S.L. 2004-108,
31 reads as rewritten:

32 "**§ 20-114.2. Law enforcement motorized all-terrain vehicles permitted on**
33 **highways with speed limits of 35 miles per hour or less.**

34 Law enforcement officers enforcing the laws of the State may use motorized
35 all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by the
36 governmental agency, on public highways where the speed limit is 35 miles per hour or
37 less. Law enforcement officers may operate motorized all-terrain vehicles on nonfully
38 controlled access highways with higher speeds for the purpose of traveling from a speed
39 zone to an adjacent speed zone where the speed limit is 35 miles per hour or less."

40 **SECTION 36.(b)** G.S. 20-114.3, as enacted by Section 2 of S.L. 2004-108,
41 reads as rewritten:

42 "**§ 20-114.3. Law enforcement and municipal employee motorized all-terrain**
43 **vehicles permitted on highways with speed limits of 35 miles per hour or**
44 **less.**

1 Law enforcement officers enforcing the laws of the State and municipal employees
2 may use motorized all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or
3 leased by the governmental agency, on public highways where the speed limit is 35
4 miles per hour or less. Law enforcement officers and municipal employees may operate
5 motorized all-terrain vehicles on nonfully controlled access highways with higher
6 speeds for the purpose of traveling from a speed zone to an adjacent speed zone where
7 the speed limit is 35 miles per hour or less."

8 **SECTION 36.(c)** Section 3 of S.L. 2004-108 reads as rewritten:

9 "**SECTION 3.** Section 1 of this act applies to the County of Surry and the Town of
10 Mint Hill only. Section 2 of this act applies to the City of Kings Mountain only."

11 **SECTION 37.** G.S. 20-118(c)(14) reads as rewritten:

12 "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and
13 20-118(e).

14 ...

15 (14) Subsections (b) and (e) of this section do not apply to a vehicle that
16 meets all of the conditions below, but all other enforcement provisions
17 of this Article remain applicable:

- 18 a. Is hauling aggregates from a distribution yard or a
19 State-permitted production site located within a North Carolina
20 county contiguous to the North Carolina State border to a
21 destination in another state adjacent to that county as verified
22 by a weight ticket in the driver's possession and available for
23 inspection by enforcement personnel.
- 24 b. Does not operate on an interstate highway or posted bridge.
- 25 c. Does not exceed 69,850 pounds gross vehicle weight and
26 53,850 pounds per axle grouping for tri-axle vehicles. For
27 purposes of this subsection, a tri-axle vehicle is a single power
28 unit vehicle with a three consecutive axle group on which the
29 respective distance between any two consecutive axles of the
30 group, measured longitudinally center to center to the nearest
31 foot, does not exceed eight feet. For purposes of this subsection,
32 the tolerance provisions of subsection (h) of this section do not
33 apply, and vehicles must be licensed in accordance with
34 G.S. 20-88.
- 35 d. Repealed by Session Laws 2001-487, s. 10, effective December
36 16, 2001.

37"

38 **SECTION 38.** G.S. 20-309 is amended by adding a new subsection to read:

39 "(h) Notwithstanding the penalty and restoration fee provisions of this section, any
40 monetary penalty or restoration fee shall be waived for any person who, at the time of
41 notification of a lapse in coverage, was deployed as a member of the United States
42 Armed Forces outside of the continental United States for a total of 45 or more days. In
43 addition, no insurance points under the Safe Driver Incentive Plan shall be assessed for

1 any violation for which a monetary penalty or restoration fee is waived pursuant to this
2 subsection."

3 **SECTION 39.(a)** G.S. 32A-37(g), as enacted by Section 1 of S.L. 2005-178,
4 reads as rewritten:

5 "(g) Nothing in this Article requires a person who accepts a power of attorney to
6 permit an attorney-in-fact to conduct business not authorized by the terms of the power
7 of attorney-attorney, or otherwise not permitted by applicable statute or regulation."

8 **SECTION 39.(b)** This section becomes effective October 1, 2005, and
9 applies to powers of attorney created before, on, or after that date."

10 **SECTION 40.(a)** G.S. 45-36.6(b), as enacted by Section 1 of S.L. 2005-123,
11 reads as rewritten:

12 "(b) If a person records a satisfaction or affidavit of satisfaction of a security
13 instrument in error or if a security instrument is satisfied of record erroneously by any
14 other means, the person or the secured creditor may execute and record a document of
15 rescission. The document of rescission must be duly acknowledged before an officer
16 authorized to make acknowledgments. Upon recording, the document rescinds an
17 erroneously recorded satisfaction or affidavit and the erroneous satisfaction of record of
18 the security instrument and reinstates the security instrument."

19 **SECTION 40.(b)** G.S. 45-37(a), as amended by Section 1 of S.L. 2005-123,
20 reads as rewritten:

21 "(a) Subject to the provisions of G.S. 45-36.9(a) and G.S. 45-73 relating to
22 security instruments which secure future advances, any security instrument intended to
23 secure the payment of money or the performance of any other obligation registered as
24 required by law may be satisfied of record and thereby discharged and released of
25 record in the following manner:

26 (1) Security instruments satisfied of record prior to October 1, 2005,
27 pursuant to this subdivision as it was in effect prior to October 1, 2005,
28 shall be deemed satisfied of record, discharged, and released.

29 ...

30 (4) By presentation to the register of deeds of any original security
31 instrument given to secure the bearer or holder of any negotiable
32 instruments transferable by delivery, together with all the evidences of
33 indebtedness secured thereby, marked paid and satisfied in full and
34 signed by the bearer or holder thereof.

35 Only upon presentation of the original security instruments, and the
36 originals of evidences of indebtedness properly marked shall the
37 register of deeds record a record of satisfaction as described in
38 G.S. 45-37.2(b), which record of satisfaction shall be valid and binding
39 upon all persons, if no person rightfully entitled to the security
40 instrument or evidences of indebtedness has previously notified the
41 register of deeds by means of a written affidavit of the loss or theft of
42 the security instrument or evidences of indebtedness and has caused
43 the register of deeds to record the affidavit of loss or theft as a separate
44 document, as required by G.S. 161-14.1.

1 Upon receipt of an affidavit of loss or theft of the security
2 instrument or evidences of indebtedness that identify the security
3 instrument, the original parties to the security instrument, and the
4 recording data for the security instrument, the register of deeds shall
5 record a record of satisfaction, as described in G.S. 45 37.2(b). The
6 security instrument shall not be presented for satisfaction after such
7 recording of a record of satisfaction or marginal entry until the
8 ownership of said instrument shall have been lawfully determined.
9 Nothing in this subdivision (4) shall be construed to impair the
10 negotiability of any instrument otherwise properly negotiable, nor to
11 impair the rights of any innocent purchaser for value thereof.

12 (5) Security instruments satisfied of record prior to October 1, 2005,
13 pursuant to this subdivision as it was in effect prior to October 1, 2005,
14 shall be deemed satisfied of record, discharged, and released.

15 (6) Security instruments satisfied of record prior to October 1, 2005,
16 pursuant to this subdivision as it was in effect prior to October 1, 2005,
17 shall be deemed satisfied of record, discharged, and released.

18 "

19 **SECTION 40.(c)** G.S. 47-14(a), as amended by Section 2 of S.L. 2005-123,
20 reads as rewritten:

21 "(a) The register of deeds shall not accept for registration any instrument that
22 requires proof or acknowledgement unless the execution of the instrument by one or
23 more signers appears to have been proved or acknowledged before an officer with the
24 apparent authority to take proofs or acknowledgements, and the said proof or
25 acknowledgement includes the officer's signature, commission expiration date, and
26 official seal, if required. The register of deeds shall accept an instrument for registration
27 that does not require proof or acknowledgement if the instrument otherwise satisfies the
28 requirements of G.S. 161-14. Any document previously recorded or any certified copy
29 of any document previously recorded may be rerecorded, regardless of whether it is
30 being rerecorded pursuant to G.S. 47-36.1. The register of deeds shall not be required to
31 verify or make inquiry concerning (i) the legal sufficiency of any proof or
32 acknowledgement, (ii) the authority of any officer who took a proof or
33 acknowledgement, ~~or~~ (iii) the legal sufficiency of any document presented for
34 ~~registration.~~registration, or (iv) whether the original document has been changed or
35 altered."

36 **SECTION 40.(d)** This section becomes effective October 1, 2005.

37 **SECTION 41.** G.S. 50C-8(c) reads as rewritten:

38 "(c) Any order may be extended one or more times, as required, provided that the
39 requirements of G.S. 50C-6 or G.S. 50C-7, as appropriate, are satisfied. The court may
40 renew an order, including an order that previously has been renewed, upon a motion by
41 the complainant filed before the expiration of the current order. The court may renew
42 the order for good cause. The commission of an act of unlawful conduct by the
43 respondent after entry of the current order is not required for an order to be renewed. If
44 the motion for extension is uncontested and the complainant seeks no modification of

1 the order, the order may be extended if the complainant's motion or affidavit states that
2 there has been no material change in relevant circumstances since entry of the order and
3 states the reason for the requested extension. Extensions may be granted only in open
4 court and not under the provisions of ~~G.S. 50D-6(e)~~.G.S. 50D-6(d)."

5 **SECTION 42.** G.S. 51-1 reads as rewritten:

6 "**§ 51-1. Requisites of marriage; solemnization.**

7 A valid and sufficient marriage is created by the consent of a male and female
8 person who may lawfully marry, presently to take each other as husband and wife,
9 freely, seriously and plainly expressed by each in the presence of the other, either:

- 10 (1) a. In the presence of an ordained minister of any religious
11 denomination, a minister authorized by a church, a superior or
12 district court judge of this State, or a magistrate; and
13 b. With the consequent declaration by the ~~minister~~ minister, judge,
14 or magistrate that the persons are husband and wife; or
15 (2) In accordance with any mode of solemnization recognized by any
16 religious denomination, or federally or State recognized Indian Nation
17 or Tribe.

18 Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not
19 ordained, are validated from their consummation."

20 **SECTION 44.(a)** G.S. 55-8-03(b), as amended by Section 7 of S.L.
21 2005-268, reads as rewritten:

22 "(b) The number of directors may be increased or decreased from time to time by
23 amendment to, or in the manner provided in, the articles of incorporation or the bylaws,
24 but for a corporation to which G.S. 55-7-28(e) ~~applies~~, applies in which shares are
25 entitled to be voted cumulatively, the number of directors shall not be decreased unless
26 one of the following applies:

- 27 (1) The decrease is approved by the shareholders in a vote in which the
28 number of shares ~~voting~~ entitled to be voted cumulatively that vote
29 against the proposal for decrease would not be sufficient to elect a
30 director by cumulative voting.
31 (2) The decrease is made pursuant to a provision of the articles of
32 incorporation or bylaws fixing a minimum and maximum number of
33 directors and authorizing the number of directors to be fixed or
34 changed from time to time, within the maximum and the minimum, by
35 the shareholders or, unless the articles of incorporation or an
36 agreement valid under G.S. 55-7-31 provides otherwise, the board of
37 directors."

38 **SECTION 44.(b)** G.S. 55-11-05(d), as enacted by Section 22 of S.L.
39 2005-268, reads as rewritten:

40 "(d) In the case of a merger ~~or share exchange~~ pursuant to G.S. 55-11-07 or
41 ~~G.S. 55-11-09~~, a share exchange pursuant to G.S. 55-11-07, references in subsections (a)
42 and ~~(b)~~(a1) of this section to "corporation" shall include a domestic corporation, a
43 domestic nonprofit corporation, a foreign corporation, and a foreign nonprofit
44 corporation as applicable.

1 **SECTION 44.(c)** G.S. 55-11-06(a)(1), as amended by Section 23 of S.L.
2 2005-268, reads as rewritten:

3 "(1) Each other merging corporation merges into the surviving corporation
4 and the separate existence of each merging corporation except the
5 surviving corporation ceases."

6 **SECTION 44.(d)** G.S. 55A-11-04(d), as enacted by Section 40 of S.L.
7 2005-268, reads as rewritten:

8 "(d) In the case of a merger pursuant to G.S. 55A-11-06 or G.S. 55A-11-08,
9 references in subsections (a) and ~~(b)~~(a1) of this section to "corporation", ~~other than~~
10 ~~references to "domestic corporation";~~ "corporation" shall include a foreign nonprofit
11 corporation, a domestic business corporation, and a foreign business
12 ~~corporation;~~ corporation as applicable."

13 **SECTION 44.(e)** G.S. 55A-11-05, as amended by Section 41 of S.L.
14 2005-268, reads as rewritten:

15 **"§ 55A-11-05. Effect of merger.**

16 (a) When a merger pursuant to G.S. 55A-11-01, 55A-11-06, or 55A-11-08 takes
17 effect:

- 18 (1) Each other merging corporation merges into the surviving corporation
19 and the separate existence of each merging corporation except the
20 surviving corporation ceases.
- 21 (2) The title to all real estate and other property owned by each merging
22 corporation is vested in the surviving corporation without reversion or
23 impairment subject to any and all conditions to which the property was
24 subject prior to the merger.
- 25 (3) The surviving corporation has all liabilities and obligations of each
26 merging corporation.
- 27 (4) A proceeding pending by or against any merging corporation may be
28 continued as if the merger did not occur or the surviving corporation
29 may be substituted in the proceeding for a merging corporation whose
30 separate existence ceases in the merger.
- 31 (5) If a domestic corporation survives the merger, its articles of
32 incorporation are amended to the extent provided in the articles of
33 merger.
- 34 (6) If a foreign corporation or a foreign business corporation survives the
35 merger, it is deemed:
 - 36 a. To agree that it may be served with process in this State in any
37 proceeding for enforcement (i) of any obligation of any merging
38 domestic corporation and (ii) of any obligation of the surviving
39 foreign corporation or foreign business corporation arising from
40 the merger.
 - 41 b. To have appointed the Secretary of State as its agent for service
42 of process in any proceeding for enforcement as specified in
43 sub-subdivision a. of this subdivision. Service of process on the
44 Secretary of State shall be made by delivering to, and leaving

1 with, the Secretary of State, or with any clerk authorized by the
2 Secretary of State to accept service of process, duplicate copies
3 of the process and the fee required by G.S. 55A-1-22(b). Upon
4 receipt of service of process on behalf of a surviving foreign
5 corporation or foreign business corporation in the manner
6 provided for in this section, the Secretary of State shall
7 immediately mail a copy of the process by registered or
8 certified mail, return receipt requested, to the surviving foreign
9 corporation or foreign business corporation. If the surviving
10 foreign corporation or foreign business corporation is
11 authorized to transact business or conduct affairs in this State,
12 the address for mailing shall be its principal office designated in
13 the latest document filed with the Secretary of State that is
14 authorized by law to designate the principal office, or if there is
15 no principal office on file, its registered office. If the surviving
16 foreign corporation or foreign business corporation is not
17 authorized to transact business or conduct affairs in this State,
18 the address for mailing shall be the mailing address designated
19 pursuant to G.S. 55A-11-04(a)(2).

20 (b) The merger shall not affect the liability or absence of liability of any member
21 of a merging corporation for acts, omissions, or obligations of any merging corporation
22 made or incurred prior to the effectiveness of the merger.

23 ~~(b)(c)~~ In the case of a merger pursuant to G.S. 55A-11-06 or G.S. 55A-11-08,
24 references in subsection (a) of this section to "corporation" shall include a domestic
25 corporation, a foreign nonprofit corporation, a domestic business corporation, and a
26 foreign business corporation, corporation as applicable."

27 **SECTION 44.(f)** G.S. 55A-11-06(c), as enacted by Section 42 of S.L.
28 2005-268, reads as rewritten:

29 "(c) This section does not limit the power of a foreign corporation to acquire all or
30 part of the ~~shares-memberships~~ of one or more classes ~~or series~~ of a domestic nonprofit
31 corporation through a voluntary exchange or otherwise."

32 **SECTION 44.(g)** G.S. 57C-9A-02(a2), as enacted by Section 47 of S.L.
33 2005-268, reads as rewritten:

34 "(a2) The provisions of the plan of conversion, other than the provisions required
35 by subdivisions (1) and ~~(2)~~ (1a) of subsection (a) of this section, may be made
36 dependent on facts objectively ascertainable outside the plan of conversion if the plan of
37 conversion sets forth the manner in which the facts will operate upon the affected
38 provisions. The facts may include any of the following:

- 39 (1) Statistical or market indices, market prices of any security or group of
40 securities, interest rates, currency exchange rates, or similar economic
41 or financial data.
42 (2) A determination or action by the converting business entity or by any
43 other person, group, or body.

1 (3) The terms of, or actions taken under, an agreement to which the
2 converting business entity is a party, or any other agreement or
3 document."

4 **SECTION 44.5.** G.S. 58-36-65(e) reads as rewritten:

5 "(e) Records of convictions for moving traffic violations to be considered under
6 this section ~~shall~~may be obtained at least annually from the Division of Motor Vehicles
7 and applied by the Bureau's member companies in accordance with rules to be
8 established by the Bureau."

9 **SECTION 45.(a)** G.S. 58-40-50, as amended by Section 7 of S.L. 2005-210,
10 is amended by adding the following new subsection to read:

11 "(i) A statistical organization is considered an insurance company for purposes of
12 the applicability of G.S. 58-6-7."

13 **SECTION 45.(b)** G.S. 58-36-4, as enacted by Section 18 of S.L. 2005-210,
14 is amended by adding the following new subsection to read:

15 "(g) A statistical organization is considered an insurance company for purposes of
16 the applicability of G.S. 58-6-7."

17 **SECTION 45.(c)** This section becomes effective October 1, 2005.

18 **SECTION 47.** G.S. 90-171.21(d)(3) reads as rewritten:

19 "(3) A public member appointed by the Governor shall not be a
20 provider of health ~~services,~~services or employed in the health
21 services field, ~~or hold a vested interest at any level in the~~
22 ~~provision of health services as defined by the North Carolina~~
23 ~~Board of Ethics.~~ field. No public member appointed by the
24 Governor or person in the public member's immediate family as
25 defined by G.S. 90-405(8) shall be currently employed as a
26 licensed nurse or been previously employed as a licensed
27 nurse."

28 **SECTION 49.(a)** G.S. 93A-4A is recodified as G.S. 93A-4.1. If House Bill
29 1284, 2005 Regular Session, becomes law and also recodifies G.S. 93A-4A, this section
30 is repealed.

31 **SECTION 49.(b)** G.S. 115D-5(h) reads as rewritten:

32 "(h) Whenever a community college offers real estate continuing education
33 courses ~~pursuant to G.S. 93A-4A,~~ under G.S. 93A-4.1, the courses shall be offered on a
34 self-supporting basis."

35 **SECTION 50.** The title to Article 12 of Chapter 95 of the General Statutes
36 reads as rewritten:

37 "Article 12.

38 ~~Public Employees Prohibited from Becoming Members of Trade Unions or Labor~~
39 ~~Unions.~~ Units of Government and Labor Unions, Trade Unions, and Labor
40 Organizations, and Public Employee Strikes."

41 **SECTION 51.** G.S. 95-138(a), as amended by Section 8 of S.L. 2005-133,
42 reads as rewritten:

43 "(a) The Commissioner, upon recommendation of the Director, or the North
44 Carolina Occupational Safety and Health Review Commission in the case of an appeal,

1 ~~may~~ shall have the authority to assess penalties against any employer who violates the
 2 requirements of this Article, or any standard, rule, or order ~~promulgated pursuant to~~
 3 adopted under this Article, as follows:

- 4 (1) A minimum penalty of five thousand dollars (\$5,000) to a maximum
 5 penalty of seventy thousand dollars (\$70,000) may be assessed for
 6 each willful or repeat violation.
- 7 (2) A ~~maximum~~ penalty of up to seven thousand dollars (\$7,000) shall be
 8 assessed for each ~~nonserious or~~ serious violation.
- 9 (2a) A penalty of up to seven thousand dollars (\$7,000) may be assessed for
 10 each violation that is adjudged not to be of a serious nature.
- 11 (3) A ~~maximum~~ penalty of up to seven thousand dollars (\$7,000) may be
 12 assessed for each day that against an employer who fails to correct and
 13 abate a violation, within the period allowed for its correction and
 14 abatement, which period shall not begin to run until the date of the
 15 final Order of the Commission in the case of any appeal proceedings in
 16 this Article initiated by the employer in good faith and not solely for
 17 the delay of avoidance of penalties. The assessment shall be made to
 18 apply to each day during which the failure or violation continues.
- 19 (4) A ~~maximum~~ penalty of up to seven thousand dollars (\$7,000) shall be
 20 assessed for violating the posting requirements, as required under the
 21 provisions of this Article."

22 **SECTION 52.** G.S. 95-232(c)(1) reads as rewritten:

23 "(1) Performing the screening test ~~on-site~~ ~~for~~ ~~prospective~~
 24 ~~employees, on-site~~, provided that samples which demonstrate a positive
 25 drug test result are sent to an approved laboratory for confirmation, or"

26 **SECTION 53.** G.S. 113A-57 is amended by adding a new subdivision to

27 read:

28 "(5) The land-disturbing activity shall be conducted in accordance with the
 29 approved erosion and sedimentation control plan."

30 **SECTION 54.(a)** G.S. 115C-81(e1)(1) reads as rewritten:

31 "(e1) School Health Education Program to Be Developed and Administered.

- 32 (1) A comprehensive school health education program shall be developed
 33 and taught to pupils of the public schools of this State from
 34 kindergarten through ninth grade. This program includes
 35 age-appropriate instruction in the following subject areas, regardless of
 36 whether this instruction is described as, or incorporated into a
 37 description of, "family life education", "family health education",
 38 "health education", "family living", "health", "healthful living
 39 curriculum", or "self-esteem":
 - 40 a. Mental and emotional health;
 - 41 b. Drug and alcohol abuse prevention;
 - 42 c. Nutrition;
 - 43 d. Dental health;
 - 44 e. Environmental health;

- 1 f. Family living;
 2 g. Consumer health;
 3 h. Disease control;
 4 i. Growth and development;
 5 j. First aid and emergency care, including the teaching of
 6 cardiopulmonary resuscitation (CPR) and the Heimlich
 7 maneuver by using hands-on training with mannequins so that
 8 students become proficient in order to pass a test approved by
 9 the American Heart Association, or American Red Cross;
 10 k. Preventing sexually transmitted diseases, including ~~Acquired~~
 11 ~~Immune Deficiency Syndrome (AIDS) virus infection,~~
 12 HIV/AIDS, and other communicable diseases;
 13 l. Abstinence until marriage education; and
 14 m. Bicycle safety.

15 As used in this subsection, "HIV/AIDS" means Human Immunodeficiency
 16 Virus/Acquired Immune Deficiency Syndrome."

17 **SECTION 54.(b)** G.S. 115C-81(e1)(3), (4), and (5) read as rewritten:

- 18 "(3) The State Board of Education shall develop objectives for instruction
 19 in the prevention of sexually transmitted diseases, including ~~Acquired~~
 20 ~~Immune Deficiency Syndrome (AIDS) virus infection,~~ HIV/AIDS, that
 21 ~~includes~~include emphasis on the importance of parental involvement,
 22 abstinence from sex until marriage, and avoiding intravenous drug use.
 23 Any program developed under this subdivision shall present
 24 techniques and strategies to deal with peer pressure and to offer
 25 positive reinforcement and shall teach reasons, skills, and strategies for
 26 remaining or becoming abstinent from sexual activity; for appropriate
 27 grade levels and classes, shall teach that abstinence from sexual
 28 activity until marriage is the only certain means of avoiding
 29 out-of-wedlock pregnancy, sexually transmitted ~~diseases,~~ diseases
 30 when transmitted through sexual contact, and other associated health
 31 and emotional problems, and that a mutually faithful monogamous
 32 heterosexual relationship in the context of marriage is the best lifelong
 33 means of avoiding diseases transmitted by sexual contact, including
 34 ~~Acquired Immune Deficiency Syndrome (AIDS);~~ HIV/AIDS, shall
 35 teach how alcohol and drug use lower inhibitions, which may lead to
 36 risky sexual behavior, and shall teach the positive benefits of
 37 abstinence until marriage and the risks of premarital sexual activity.
 38 ~~Any instruction concerning the causes of sexually transmitted diseases,~~
 39 ~~including Acquired Immune Deficiency Syndrome (AIDS), in cases~~
 40 ~~where homosexual acts are a significant means of transmission, shall~~
 41 ~~include the current legal status of those acts.~~
 42 (4) The State Board of Education shall evaluate abstinence until marriage
 43 curricula and their learning materials and shall develop and maintain a
 44 recommended list of one or more approved abstinence until marriage

1 curricula. The State Board may develop an abstinence until marriage
2 program to include on the recommended list. The State Board of
3 Education shall not select or develop a program for inclusion on the
4 recommended list that does not include the positive benefits of
5 abstinence until marriage and the risks of premarital sexual activity as
6 the primary focus. The State Board shall include on the recommended
7 list only programs that include, in appropriate grades and classes,
8 instruction that:

- 9 a. Teaches that abstinence from sexual activity outside of
10 marriage is the expected standard for all school-age children;
11 b. Presents techniques and strategies to deal with peer pressure
12 and offering positive reinforcement;
13 c. Presents reasons, skills, and strategies for remaining or
14 becoming abstinent from sexual activity;
15 d. Teaches that abstinence from sexual activity is the only certain
16 means of avoiding out-of-wedlock pregnancy, sexually
17 transmitted diseases when transmitted through sexual contact,
18 including ~~Acquired Immune Deficiency Syndrome (AIDS)~~,
19 HIV/AIDS, and other associated health and emotional
20 problems;
21 e. Teaches that a mutually faithful monogamous heterosexual
22 relationship in the context of marriage is the best lifelong means
23 of avoiding sexually transmitted diseases, including ~~Acquired~~
24 ~~Immune Deficiency Syndrome (AIDS)~~; HIV/AIDS;
25 f. Teaches the positive benefits of abstinence until marriage and
26 the risks of premarital sexual activity;
27 g. Provides opportunities that allow for interaction between the
28 parent or legal guardian and the student; ~~and~~
29 h. Provides factually accurate biological or pathological
30 information that is related to the human reproductive system.

- 31 (5) The State Board of Education shall make available to all local school
32 administrative units for review by the parents and legal guardians of
33 students enrolled at that unit any State-developed objectives for
34 instruction, any approved textbooks, the list of reviewed materials, and
35 any other State-developed or approved materials that pertain to or are
36 intended to impart information or promote discussion or understanding
37 in regard to the prevention of sexually transmitted diseases, including
38 ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, to the
39 avoidance of out-of-wedlock pregnancy, or to the abstinence until
40 marriage curriculum. The review period shall extend for at least 60
41 days before use."

42 **SECTION 54.(c)** G.S. 115C-81(e1)(7) and (8) read as rewritten:

- 43 "(7) Each school year, before students may participate in any portion of (i)
44 a program that pertains to or is intended to impart information or

1 promote discussion or understanding in regard to the prevention of
2 sexually transmitted diseases, including ~~Acquired Immune Deficiency~~
3 ~~Syndrome (AIDS)~~, HIV/AIDS, or to the avoidance of out-of-wedlock
4 pregnancy, (ii) an abstinence until marriage program, or (iii) a
5 comprehensive sex education program, whether developed by the State
6 or by the local board of education, the parents and legal guardians of
7 those students shall be given an opportunity to review the objectives
8 and materials. Local boards of education shall adopt policies to
9 provide opportunities either for parents and legal guardians to consent
10 or for parents and legal guardians to withhold their consent to the
11 students' participation in any or all of these programs.

- 12 (8) Students may receive information about where to obtain contraceptives
13 and abortion referral services only in accordance with a local board's
14 policy regarding parental consent. Any instruction concerning the use
15 of contraceptives or prophylactics shall provide accurate statistical
16 information on their effectiveness and failure rates for preventing
17 pregnancy and sexually transmitted diseases, including ~~Acquired~~
18 ~~Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, in actual use
19 among adolescent populations and shall explain clearly the difference
20 between risk reduction and risk elimination through abstinence. The
21 Department of Health and Human Resources shall provide the most
22 current available information at the beginning of each school year."

23 **SECTION 54.(d)** This section applies beginning with the 2006-2007 school
24 year.

25 **SECTION 56.(a)** Article 19A of Chapter 115C of the General Statutes is
26 repealed.

27 **SECTION 56.(b)** G.S. 115C-284(c) reads as rewritten:

28 "(c) The State Board of Education shall have entire control of certifying all
29 applicants for supervisory and professional positions in all public elementary and high
30 schools of North Carolina; and it shall prescribe the rules and regulations for the
31 renewal and extension of all certificates, and shall determine and fix the salary for each
32 grade and type of certificate which it authorizes. The State Board of Education shall
33 require each applicant for an initial certificate or graduate ~~certificate, other than an~~
34 ~~applicant who is qualified under Article 19A of this Chapter,~~ certificate to demonstrate
35 the applicant's academic and professional preparation by achieving a prescribed
36 minimum score at least equivalent to that required by the Board on November 30, 1972,
37 on a standard examination appropriate and adequate for that purpose. If the Board shall
38 specify the National Teachers Examination for this purpose, the required minimum
39 score shall not be lower than that which the Board required on November 30, 1972. ~~The~~
40 ~~Board may not require an applicant who is qualified under Article 19A of this Chapter~~
41 ~~to take an additional exam to demonstrate academic competence.~~ The Board shall not
42 issue provisional certificates for principals."

1 **SECTION 57.(a)** Article 26A of Chapter 115C of the General Statutes, as
2 enacted by Section 1 of S.L. 2005-22, is recodified as Article 25A of Chapter 115C of
3 the General Statutes.

4 **SECTION 57.(b)** G.S. 115C-375.2(g), as enacted by Section 1 of S.L.
5 2005-22, reads as rewritten:

6 "(g) No local board of education, nor its members, employees, designees, agents,
7 or volunteers, shall be liable in civil damages to any party for any act authorized by this
8 ~~subsection, section,~~ or for any omission relating to that act, unless that act or omission
9 amounts to gross negligence, wanton conduct, or intentional wrongdoing."

10 **SECTION 57.(c)** The introductory language of Section 2(b) of S.L. 2005-22
11 reads as rewritten:

12 "**SECTION 2.(b)** ~~Article 26A,~~ Article 25A of Chapter 115C of the General
13 Statutes, as created in Section 1 of this act, is amended by adding the following new
14 section to read:

15 "**SECTION 58.** G.S. 115C-391.1(d)(3), as enacted by Section 2 of S.L. 2005-205,
16 reads as rewritten:

17 "(3) Nothing in this subsection shall be construed to prevent the use of
18 mechanical restraint ~~devices,~~ devices such as handcuffs by law
19 enforcement officers in the lawful exercise of their law enforcement
20 duties."

21 **SECTION 59.(a)** G.S. 115C-566(a) reads as rewritten:

22 "(a) The Secretary of Administration, upon consideration of the advice of the
23 Division of Nonpublic Education in the ~~Office of the Governor~~ Department of
24 Administration and representatives of nonpublic schools, shall adopt rules for the
25 procedures a person who is or was enrolled in a home school, in a nonpublic school that
26 is not accredited by the State Board of Education, or in an educational program found
27 by a court, prior to July 1, 1998, to comply with the compulsory attendance law, must
28 follow and the requirements that person must meet to obtain a driving eligibility
29 certificate. The procedures shall provide that the person who is required under
30 G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he
31 or she determines that one of the following requirements is met:

32 (1) The person seeking the certificate is eligible for the certificate under
33 G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).

34 (2) The person seeking the certificate is eligible for the certificate under
35 G.S. 20-11(n)(1) and G.S. 20-11(n1).

36 The rules shall define exemplary student behavior, define what constitutes the
37 successful completion of a drug or alcohol treatment counseling program, and provide
38 for an appeal to an appropriate educational entity by a person who is denied a driving
39 eligibility certificate. The Division of Nonpublic Education also shall develop policies
40 as to when it is appropriate to notify the Division of Motor Vehicles that a person who
41 is or was enrolled in a home school or in a nonpublic school that is not accredited by the
42 State Board of Education no longer meets the requirements for a driving eligibility
43 certificate."

44 **SECTION 59.(b)** G.S. 143-49(4) is repealed.

1 **SECTION 59.(c)** G.S. 143-55 reads as rewritten:

2 "**§ 143-55. Requisitioning for supplies by agencies; must purchase through sources**
3 **certified.**

4 ~~After~~Unless otherwise provided by law, after sources of supply have been
5 established by contract and certified by the Secretary of Administration to the said
6 departments, institutions and agencies as herein provided for, it shall be the duty of all
7 departments, institutions and agencies to make requisition or issue orders on forms to be
8 prescribed by the Secretary of Administration, for all supplies, materials and equipment
9 required by them upon the sources of supply so certified, and, except as herein
10 otherwise provided for, it shall be unlawful for them, or any of them, to purchase any
11 supplies, materials or equipment from other sources than those certified by the Secretary
12 of Administration. One copy of such requisition or order shall be furnished to and when
13 requested by the Secretary of Administration."

14 **SECTION 60.** G.S. 120-32.1(d) reads as rewritten:

15 "(d) For the purposes of this section, the term "State legislative buildings and
16 grounds" means:

17 (1) At all times:

- 18 a. The State Legislative Building;
19 a1. Repealed by Session Laws 1998-156, s. 1, effective September
20 24, 1998.
21 a2. The areas between the outer walls of the State Legislative
22 Building and the far curblineline of those sections of Jones,
23 Wilmington, Salisbury, and Lane Streets that border the land on
24 which it is situated;
25 b. The Legislative Office Building, which shall include the
26 following areas:
27 1. The garden area and outer stairway;
28 2. The loading dock area bounded by the wall on the east
29 abutting the ~~State Government~~Halifax Street Mall, the
30 southern edge of the southernmost exit lane on Salisbury
31 Street for the parking deck, and the Salisbury Street
32 sidewalk;
33 3. The area between its outer wall and the near curblineline of
34 that section of Lane Street that borders the land on which
35 it is situated; and
36 4. The area bounded by its western outer wall, the
37 extension of a line along its northern outer wall to the
38 middle of Salisbury Street, following the middle line of
39 Salisbury Street to the nearest point of the intersection of
40 Lane and Salisbury Streets, and thence east to the near
41 curblineline of the Legislative Office Building at its
42 southwestern corner;
43 c. Any State-owned parking lot which is leased to the General
44 Assembly;

- d. The bridge between the State Legislative Building and the ~~State Governmental~~ Halifax Street Mall; and
- e. A portion of the brick sidewalk surface area of the ~~State Government~~ Halifax Street Mall, described as follows: beginning at the northeast corner of the Legislative Office Building, thence east across the brick sidewalk to the inner edge of the sidewalk adjacent to the grassy area of the Mall, thence south along the inner edge of the sidewalk to the southwest outer corner of the ~~Mall water fountain~~, grassy area of the Mall, thence east along the inner edge of the sidewalk adjacent to the southern outer edge of the fountain grassy area of the Mall to a point north of the northeast corner of the pedestrian surface of the Lane Street pedestrian bridge, thence south from that point to the northeast corner of the pedestrian surface of the bridge, thence west along the southern edge of the brick sidewalk area of the Mall to the southeast corner of the Legislative Office Building, thence north along the east wall of the Legislative Office Building, to the point of beginning.
- f. From the center of Lane Street to the far curbline on the south side of the street; between the western edge of the Lane Street driveway to the gardens behind the State Records Center, and Wilmington Street.

(2) Repealed by Session Laws 1998-156, s. 1, effective September 24, 1998."

SECTION 61.(a) G.S. 122C-270 reads as rewritten:

"§ 122C-270. Attorneys to represent the respondent and the State.

(a) In a superior court district or set of districts as defined in G.S. 7A-41.1 in which a State facility for the mentally ill is located, the Commission on Indigent Defense Services shall appoint an attorney licensed to practice in North Carolina as special counsel for indigent respondents who are mentally ill. These special counsel shall serve at the pleasure of the Commission, may not privately practice law, and shall receive annual compensation within the salary range for assistant public defenders as fixed by the Office of Indigent Defense Services. The special counsel shall represent all indigent respondents at all hearings, rehearings, and supplemental hearings held at the ~~State facility and on appeals held under this Article.~~ facility. Special counsel shall determine indigency in accordance with G.S. 7A-450(a). Indigency is subject to redetermination by the presiding judge. If the respondent appeals, counsel for the appeal shall be appointed in accordance with rules adopted by the Office of Indigent Defense Services.

(b) The State facility shall provide suitable office space for the counsel to meet privately with respondents. The Office of Indigent Defense Services shall provide secretarial and clerical service and necessary equipment and supplies for the office.

(c) In the event of a vacancy in the office of special counsel, counsel's incapacity, or a conflict of interest, counsel for indigents at hearings or rehearings may be assigned

1 in accordance with rules adopted by the Office of Indigent Defense Services. No
2 mileage or compensation for travel time is paid to a counsel appointed pursuant to this
3 subsection. Counsel may also be so assigned when, in the opinion of the Director of the
4 Office of Indigent Defense Services, the volume of cases warrants.

5 (d) At hearings held in counties other than those designated in subsection (a) of
6 this section, counsel for indigent respondents shall be appointed in accordance with
7 rules adopted by the Office of Indigent Defense Services.

8 (e) ~~Counsel assigned to represent an indigent respondent at the initial district~~
9 ~~court hearing is also responsible for perfecting and concluding an appeal, if there is one.~~
10 ~~Upon completion of an appeal, or upon transfer of the respondent to a State facility for~~
11 ~~the mentally ill, if there is no appeal, assigned counsel is discharged.~~ If the respondent is
12 committed to a non-State 24-hour facility, assigned counsel remains responsible for ~~his~~
13 the respondent's representation at the trial level until discharged by order of district
14 court, until the respondent is unconditionally discharged from the facility, or until the
15 respondent voluntarily admits himself or herself to the facility. If the respondent is
16 transferred to a State facility for the mentally ill, assigned counsel is discharged. If the
17 respondent appeals, counsel for the appeal shall be appointed in accordance with rules
18 adopted by the Office of Indigent Defense Services.

19 (f) The Attorney General may employ four attorneys, one to be assigned by him
20 full-time to each of the State facilities for the mentally ill, to represent the State's
21 interest at commitment hearings, rehearings and supplemental hearings held under this
22 Article at the State facilities for respondents admitted to those facilities pursuant to Part
23 3, 4, 7, or 8 of this Article or G.S. 15A-1321 and to provide liaison and consultation
24 services concerning these matters. These attorneys are subject to Chapter 126 of the
25 General Statutes and shall also perform additional duties as may be assigned by the
26 Attorney General. The attorney employed by the Attorney General in accordance with
27 G.S. 114-4.2B shall represent the State's interest at commitment hearings, rehearings
28 and supplemental hearings held for respondents admitted to the University of North
29 Carolina Hospitals at Chapel Hill pursuant to Part 3, 4, 7, or 8 of this Article or
30 G.S. 15A-1321."

31 **SECTION 61.(b)** G.S. 122C-289 reads as rewritten:

32 "**§ 122C-289. Duty of assigned counsel; discharge.**

33 ~~Counsel assigned to represent an indigent respondent at the initial district court~~
34 ~~hearing is also responsible for perfecting and concluding an appeal. Upon completion of~~
35 ~~an appeal, assigned counsel is discharged.~~ If the respondent is committed, assigned
36 counsel remains responsible for ~~his~~ the respondent's representation at the trial level until
37 discharged by order of district court or until the respondent is otherwise unconditionally
38 discharged. If the respondent appeals, counsel for the appeal shall be appointed in
39 accordance with rules adopted by the Office of Indigent Defense Services."

40 **SECTION 61.(c)** This section becomes effective October 1, 2005, and
41 applies to appeals filed on or after that date."

42 **SECTION 62.** Effective January 1, 2006, G.S. 130A-209 reads as rewritten:

43 "**§ 130A-209. Incidence reporting of cancer; charge for collection if failure to**
44 **report.**

1 (a) All health care facilities and health care providers that detect, diagnose, or
2 treat cancer or benign brain or central nervous system tumors shall report to the central
3 cancer registry each diagnosis of cancer or benign brain or central nervous system
4 tumors in any person who is screened, diagnosed, or treated by the facility or provider.
5 The reports shall be made within six months of diagnosis. Diagnostic, demographic and
6 other information as prescribed by the rules of the Commission shall be included in the
7 report.

8 (b) If a health care facility or health care provider fails to report as required under
9 this section, then the central cancer registry may conduct a site visit to the facility or
10 provider or be provided access to the information from the facility or provider and
11 report it in the appropriate format. The Commission may adopt rules requiring that the
12 facility or provider reimburse the registry for its cost to access and report the
13 information in an amount not to exceed one hundred dollars (\$100.00) per case. Thirty
14 days after the expiration of the six-month period for reporting under subsection (a) of
15 this section, the registry shall send notice to each facility and provider that has not
16 submitted a report as of that date that failure to file a report within 30 days shall result in
17 collection of the data by the registry and liability for reimbursement imposed under this
18 section. Failure to receive or send the notice required under this section shall not be
19 construed as a waiver of the reporting requirement. For good cause, the central cancer
20 registry may grant an additional 30 days for reporting.

21 (c) As used in this section, the term:

22 (1) "Health care facility" or "facility" means any hospital, clinic, or other
23 facility that is licensed to administer medical treatment or the primary
24 function of which is to provide medical treatment in this State. The
25 term includes health care facility laboratories and independent
26 pathology laboratories;

27 (2) "Health care provider" or "provider" means any person who is licensed
28 or certified to practice a health profession or occupation under Chapter
29 90 of the General Statutes and who diagnoses or treats ~~cancer~~cancer
30 or benign brain or central nervous system tumors."

31 **SECTION 63.** G.S. 130A-335.1(a) reads as rewritten:

32 "(a) The manufacturer ~~of each of~~, or the person who installs, repairs, or pumps,
33 any septic tank to be installed in this State as a part of a septic tank system that is
34 designed to treat 3,000 gallons per day or less of sewage shall provide an effluent filter
35 approved by the Department pursuant to the requirements of G.S. 130A-335, this
36 section, and rules adopted by the Commission. Any person who installs, repairs, or
37 pumps systems described in this section may purchase and install any approved filters
38 on the systems. The person who installs the ~~septic tank system~~effluent filter shall install
39 the effluent filter as a part of the septic tank system in accordance with the
40 specifications provided by the manufacturer of the effluent filter. An effluent filter shall:

41 (1) Be made of materials that are capable of withstanding the corrosives to
42 which septic tank systems are normally subject.

- 1 (2) Prevent solid material larger than one-sixteenth of an inch, as
2 measured along the shortest axis of the material, from entering the
3 drainfield.
4 (3) Be designed and constructed to allow for routine maintenance.
5 (4) Be designed and constructed so as not to require maintenance more
6 frequently than once in any three-year period under normally
7 anticipated use."

8 **SECTION 64.(a)** G.S. 130A-480(d) reads as rewritten:

9 "(d) For purposes of this section, "hospital" means a hospital, as defined in
10 G.S. 131E-214.1(3), that operates an emergency room on a 24-hour basis. The term
11 does not include a psychiatric hospital ~~subject to Article 2 of Chapter 122C of the~~
12 ~~General Statutes that operates an emergency room.~~"

13 **SECTION 64.(b)** G.S. 131E-14.2(d), as amended by Section 1 of S.L.
14 2005-70, reads as rewritten:

15 "(d) Subsection (a) of this section shall not apply to any member of the board of
16 directors of a public hospital if (i) the undertaking or contract or series of undertakings
17 or contracts between the public hospital and one of its officials is approved by specific
18 resolution of the board adopted in an open and public meeting and recorded in its
19 minutes; (ii) the official entering into the contract or undertaking with the public
20 hospital does not in an official capacity participate in any way or vote; and (iii) the
21 amount does not exceed twelve thousand five hundred dollars (\$12,500) for medically
22 related services and twenty-five thousand dollars (\$25,000) for other goods or services
23 within a 12-month ~~period;—period,~~ or the contract is for medically related or
24 administrative services that are provided by a director who serves on the board as an ex
25 officio representative of the hospital medical staff pursuant to a hospital bylaw adopted
26 prior to January 1, 2005, or that are provided by the spouse of that director."

27 **SECTION 65.** G.S. 131D-21.2(b) reads as rewritten:

28 "(b) The proceedings of a quality assurance, medical, or peer review committee,
29 the records and materials it produces and the materials it considers shall be confidential
30 and not considered public records within the meaning of G.S. 132-1, "Public records'
31 defined", and shall not be subject to discovery or introduction into evidence in any civil
32 action against a ~~nursing-an adult care~~ home or a provider of professional health services
33 that results from matters that are the subject of evaluation and review by the committee.
34 No person who was in attendance at a meeting of the committee shall be required to
35 testify in any civil action as to any evidence or other matters produced or presented
36 during the proceedings of the committee or as to any findings, recommendations,
37 evaluations, opinions, or other actions of the committee or its members. However,
38 information, documents, or records otherwise available are not immune from discovery
39 or use in a civil action merely because they were presented during proceedings of the
40 committee. Documents otherwise available as public records within the meaning of
41 G.S. 132-1 do not lose their status as public records merely because they were presented
42 or considered during proceedings of the committee. A member of the committee or a
43 person who testifies before the committee may testify in a civil action but cannot be

1 asked about the person's testimony before the committee or any opinions formed as a
2 result of the committee hearings."

3 **SECTION 66.(a)** G.S. 135-40.13A reads as rewritten:

4 "**§ 135-40.13A. Liability of third person; right of subrogation; right of first**
5 **recovery.**

6 (a) ~~Whenever the Plan pays benefits for hospital, surgical, medical, or~~
7 ~~prescription drug expenses, with respect to any Plan member, the Plan shall be~~
8 ~~subrogated, to the extent of any payments under the Plan, to all of the Plan member's~~
9 ~~rights of recovery against liable third parties, regardless of the entity or individual from~~
10 ~~whom recovery may be due.~~The Plan shall have the right of subrogation upon all of the
11 Plan member's right to recover from a liable third party for payment made under the
12 Plan, for all medical expenses, including provider, hospital, surgical, or prescription
13 drug expenses, to the extent those payments are related to an injury caused by a liable
14 third party. The Plan member shall do nothing to prejudice these rights. The Plan has
15 the right to first recovery on any amounts so recovered, whether by the Plan or the Plan
16 member, and whether recovered by litigation, arbitration, mediation, settlement, or
17 otherwise. Notwithstanding any other provision of law to the contrary, the recovery
18 limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's right of subrogation of
19 Plan members.

20 (b) If the Plan is precluded from exercising its right of subrogation, it may
21 exercise its rights of recovery ~~to the extent allowed by law.~~pursuant to
22 G.S. 135-40.13(g). If the Plan recovers damages from a liable third party in excess of
23 the claims paid, any excess will be paid to the member, less a proportionate share of the
24 costs of collection.

25 (c) In the event a Plan member recovers any amounts from a liable third party to
26 which the Plan is entitled under this section, the Plan may recover the amounts directly
27 from the Plan member. The Plan has a lien, for not more than the value of claims paid
28 related to the liability of the third party, on any damages subsequently recovered against
29 the liable third party. If the Plan member fails to pursue the remedy against a liable third
30 party, the Plan is subrogated to the rights of the Plan member and is entitled to enforce
31 liability in the Plan's own name or in the name of the Plan member for the amount paid
32 by the Plan.

33 (d) In no event shall the Plan's lien exceed fifty percent (50%) of the total
34 damages recovered by the Plan member, exclusive of the Plan member's reasonable
35 costs of collection as determined by the Plan in the Plan's sole discretion. The decision
36 by the Plan as to the reasonable cost of collection is conclusive and is not a "final
37 agency decision" for purposes of a contested case under Chapter 150B of the General
38 Statutes. Notice of the Plan's lien or right to recovery shall be presumed when a Plan
39 member is represented by an attorney, and the attorney shall disburse proceeds pursuant
40 to this section."

41 **SECTION 66.(b)** G.S. 28A-18-2(a) reads as rewritten:

42 "(a) When the death of a person is caused by a wrongful act, neglect or default of
43 another, such as would, if the injured person had lived, have entitled him to an action
44 for damages therefor, the person or corporation that would have been so liable, and his

1 or their personal representatives or collectors, shall be liable to an action for damages, to
2 be brought by the personal representative or collector of the decedent; and this
3 notwithstanding the death, and although the wrongful act, neglect or default, causing the
4 death, amounts in law to a felony. The personal representative or collector of the
5 decedent who pursues an action under this section may pay from the assets of the estate
6 the reasonable and necessary expenses, not including attorneys' fees, incurred in
7 pursuing the action. At the termination of the action, any amount recovered shall be
8 applied first to the reimbursement of the estate for the expenses incurred in pursuing the
9 action, then to the payment of attorneys' fees, and shall then be distributed as provided
10 in this section. The amount recovered in such action is not liable to be applied as assets,
11 in the payment of debts or legacies, except as to burial expenses of the deceased, and
12 reasonable hospital and medical expenses not exceeding four thousand five hundred
13 dollars (\$4,500) incident to the injury resulting in death, except that the amount applied
14 for hospital and medical expenses shall not exceed fifty percent (50%) of the amount of
15 damages recovered after deducting attorneys' fees, but shall be disposed of as provided
16 in the Intestate Succession Act. The limitations on recovery for hospital and medical
17 expenses under this subsection do not apply to subrogation rights exercised pursuant to
18 G.S. 135-40.13A. All claims filed for such services shall be approved by the clerk of the
19 superior court and any party adversely affected by any decision of said clerk as to said
20 claim may appeal to the superior court in term time."

21 **SECTION 66.(c)** This section is effective when it becomes law and applies
22 to payments made by the Plan after July 20, 2004, for which reimbursement is sought
23 on or after the effective date. Subsection (b) of this section applies to wrongful deaths
24 occurring on or after the effective date.

25 **SECTION 67.** G.S. 143-3.3(g), as amended by Section 6.35 of S.L.
26 2005-276, reads as rewritten:

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

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

42 An authorization under this subsection shall remain in effect until revoked by the
43 employee. A plan of payroll deductions pursuant to this subsection for employees of the
44 State and other association members shall become void if the employees' association

1 engages in collective bargaining with the State, any political subdivision of the State, or
2 any local school administrative unit. This subsection does not apply to county or
3 municipal governments or any local governmental unit, except for local boards of
4 education."

5 **SECTION 68.** G.S. 143-717(b) reads as rewritten:

6 "(b) Membership. – The Commission shall consist of 18 members. The
7 Commission shall be appointed as follows: six members by the Governor, six members
8 by the President Pro Tempore of the Senate, and six members by the Speaker of the
9 House of Representatives. The members shall be appointed as follows:

10 (1) The Governor shall make the following appointments:

- 11 a. A flue-cured tobacco farmer.
- 12 b. A flue-cured tobacco farmer.
- 13 c. A person in or displaced from tobacco-related employment.
- 14 d. An at-large appointee.
- 15 e. An at-large appointee.
- 16 f. An at-large appointee.

17 (2) The President Pro Tempore of the Senate shall make the following
18 appointments:

- 19 a. A flue-cured tobacco farmer.
- 20 b. A flue-cured tobacco farmer.
- 21 c. ~~A burley allotment holder who is also a burley tobacco farmer.~~
- 22 d. An at-large appointee.
- 23 e. An at-large appointee.
- 24 f. An at-large appointee.

25 (3) The Speaker of the House of Representatives shall make the following
26 appointments:

- 27 a. A flue-cured tobacco farmer.
- 28 b. A former flue-cured allotment holder who is not also a
29 flue-cured tobacco farmer.
- 30 c. A burley tobacco farmer.
- 31 d. An at-large appointee.
- 32 e. An at-large appointee.
- 33 f. An at-large appointee.

34 It is the intent of the General Assembly that the appointing authorities, in appointing
35 members, shall appoint members who represent the geographic, political, gender, and
36 racial diversity of the State. It is the intent of the General Assembly that at least one-half
37 of the members of the Commission be tobacco farmers.

38 Except as provided for the initial members under subsection (c) of this section,
39 members shall serve four-year terms beginning July 1. No member may serve more than
40 two full consecutive terms. Members may continue to serve beyond their terms until
41 their successors are duly appointed, but any holdover shall not affect the expiration date
42 of the succeeding term. Vacancies shall be filled by the designated appointing authority
43 for the remainder of the unexpired term. A member may be removed from office for
44 cause by the authority that appointed that member."

1 **SECTION 68.5.** G.S. 143B-216.67(b), as enacted by Section 10.59F(d) of
2 S.L. 2005-276, reads as rewritten:

3 "(b) The Commission shall consist of ~~six~~seven members appointed as follows:

- 4 (1) Two ~~optometrists and~~optometrists, two ophthalmologists, and one
5 pediatrician, each of whom is licensed to practice in this State,
6 appointed by the Governor;
- 7 (2) One optometrist licensed to practice in this State appointed by the
8 General Assembly upon the recommendation of the Speaker of the
9 House of Representatives; and
- 10 (3) One ophthalmologist licensed to practice in this State appointed by the
11 General Assembly upon the recommendation of the President Pro
12 Tempore of the Senate.

13 The initial members appointed by the General Assembly shall each serve a
14 one-year term. The initial members appointed by the Governor shall each serve a
15 two-year term. Subsequent appointments shall be for three-year terms. Vacancies shall
16 be filled by the original appointing authority."

17 **SECTION 69.(a)** G.S. 143B-437.51 reads as rewritten:

18 "**§ 143B-437.51. Definitions.**

19 The following definitions apply in this Part:

- 20 (1) Agreement. – A community economic development agreement under
21 G.S. 143B-437.57.
- 22 (2) ~~Base-years period.~~ – ~~The first 24 months following the date set by the~~
23 ~~Committee for performance to begin under the agreement~~ period of
24 time set by the Committee during which new employees are to be
25 hired for the positions on which the grant shall be based.
- 26 (3) Business. – A corporation, sole proprietorship, cooperative association,
27 partnership, S corporation, limited liability company, nonprofit
28 corporation, or other form of business organization, located either
29 within or outside this State.
- 30 (4) Committee. – The Economic Investment Committee established
31 pursuant to G.S. 143B-437.54.
- 32 (5) Eligible position. – A position created by a business and filled by a
33 new ~~full-time~~ employee in this State during the ~~base-years or in~~
34 ~~subsequent years of a grant period.~~
- 35 (5a) Enterprise tier. – The classification assigned to an area pursuant to
36 G.S. 105-129.3.
- 37 (6) Full-time employee. – A person who is employed for consideration for
38 at least 35 hours a week, whose wages are subject to withholding
39 under Article 4A of Chapter 105 of the General Statutes, and who is
40 determined by the Committee to be employed in a permanent position
41 according to criteria it develops in consultation with the Attorney
42 General. The term does not include any person who works as an
43 independent contractor or on a consulting basis for the business.

- 1 (7) New employee. – A full time employee who represents a net increase
2 in the number of the business's employees statewide. The term
3 includes an employee who previously filled an eligible position who is
4 rehired or called back from a layoff that occurs during or following the
5 base years to a vacant position previously held by that employee or to
6 a new position established during or following the base years.
- 7 (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- 8 (9) Related member. – Defined in G.S. 105-130.7A.
- 9 (10) Withholdings. – The amount withheld by a business from the wages of
10 employees in eligible positions under Article 4A of Chapter 105 of the
11 General Statutes."

12 **SECTION 69.(b)** G.S. 143B-437.52(d) reads as rewritten:

13 "(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this
14 section and G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the
15 Committee may designate that the increase or maintenance of employment is measured
16 at the level of a division or another operating unit of a business, rather than at the
17 business level, if both of the following conditions are met:

- 18 (1) The Committee makes an explicit finding that the designation is
19 necessary to secure the project in this State.
- 20 (2) The ~~designation-agreement~~ contains terms to ensure that the business
21 does not create eligible positions by transferring or shifting to the
22 project existing positions from another project of the business or a
23 related member of the business."

24 **SECTION 69.(c)** G.S. 143B-437.55(a) reads as rewritten:

25 "(a) Application. – A business shall apply, under oath, to the Committee for a
26 grant on a form prescribed by the Committee that includes at least all of the following:

- 27 (1) The name of the business, the proposed location of the project, and the
28 type of activity in which the business will engage at the project site or
29 sites.
- 30 (2) The names and addresses of the principals or management of the
31 business, the nature of the business, and the form of business
32 organization under which it is operated.
- 33 (3) The financial statements of the business prepared by a certified public
34 accountant and any other financial information the Committee
35 considers necessary.
- 36 (4) The number of eligible positions proposed to be created ~~during the~~
37 ~~base years and thereafter~~ for the project and the salaries for these
38 positions."

39 **SECTION 69.(d)** G.S. 143B-437.56(c) reads as rewritten:

40 "(c) The grant may be based only on eligible positions created during the base
41 years, ~~unless the Committee makes an explicit determination that the grant shall also be~~
42 ~~based on additional eligible positions created during the remainder of the term of the~~
43 grant period set by the Committee."

44 **SECTION 69.(e)** G.S. 143B-437.57(a) reads as rewritten:

1 "(a) Terms. – Each community economic development agreement shall include at
2 least the following:

- 3 (1) A detailed description of the proposed project that will result in job
4 creation and the number of new employees to be hired ~~in~~during the
5 ~~base years and later years~~ period.
- 6 (2) The term of the grant and the criteria used to determine the first year
7 for which the grant may be claimed.
- 8 (3) The number of eligible positions that are subjects of the grant and a
9 description of those positions and the location of those positions.
- 10 (4) The amount of the grant based on a percentage of withholdings.
- 11 (5) A method for determining the number of new employees hired during
12 a grant year.
- 13 (6) A method for the business to report annually to the Committee the
14 number of eligible positions for which the grant is to be made.
- 15 (7) A requirement that the business report to the Committee annually the
16 aggregate amount of withholdings during the grant year.
- 17 (8) A provision permitting an audit of the payroll records of the business
18 by the Committee from time to time as the Committee considers
19 necessary.
- 20 (9) A provision that requires the Committee to amend an agreement
21 pursuant to G.S. 143B-437.59.
- 22 (10) A provision that requires the business to maintain operations at the
23 project location or another location approved by the Committee for at
24 least one hundred fifty percent (150%) of the term of the grant and a
25 provision to permit the Committee to recapture all or part of the grant
26 at its discretion if the business does not remain at the site for the
27 required term.
- 28 (11) A provision that requires the business to maintain employment levels
29 in this State at the level of the year immediately preceding the base
30 ~~years~~ period."

31 **SECTION 69.(f)** G.S. 143B-437.58(a) reads as rewritten:

32 "(a) No later than March 1 of each year, for the preceding grant year, every
33 business that is awarded a grant under this Part shall submit to the Committee a report
34 showing withholdings as a condition of its continuation in the grant program. In
35 addition, during the base period, the business shall submit to the Committee an annual
36 payroll report showing the eligible positions that ~~are~~have been created during the ~~base~~
37 ~~years and the new eligible positions created during each subsequent~~ preceding calendar
38 year and, subsequent to the base period, the business shall submit to the Committee an
39 annual report showing the eligible positions that remain filled at the end of each year of
40 the grant. Upon request of the Committee, the business shall also submit a copy of its
41 State and federal tax returns. Payroll and tax information and State and federal tax
42 returns of individual taxpayers submitted under this subsection is tax information
43 subject to G.S. 105-259. Aggregated payroll or withholding tax information submitted
44 or derived under this subsection is not tax information subject to G.S. 105-259. When

1 making a submission under this section, the business must pay the Committee a fee of
2 one thousand five hundred dollars (\$1,500). The fee is due at the time the submission is
3 made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the
4 Office of State Budget and Management shall determine the allocation of the fee
5 imposed by this section among their agencies. The proceeds of the fee are receipts of the
6 agency to which they are credited."

7 **SECTION 70.** G.S. 145-23, as enacted by S.L. 2005-78, reads as rewritten:

8 **"§ 145-23. State birthplace of traditional pottery.**

9 The Seagrove area, including portions of Randolph, Chatham, Lee, Moore, and
10 Montgomery Counties, is designated as the official location of the birthplace of North
11 Carolina traditional pottery."

12 **SECTION 71.** G.S. 147-33.72F reads as rewritten:

13 **"§ 147-33.72F. Procurement procedures; cost savings.**

14 Pursuant to Part 4 of this Article, the Office of ~~State~~ Information Technology
15 Services shall establish procedures for the procurement of information technology. The
16 procedures may include aggregation of hardware purchases, the use of formal bid
17 procedures, restrictions on supplemental staffing, enterprise software licensing, hosting,
18 and multiyear maintenance agreements. The procedures may require agencies to submit
19 information technology procurement requests to the Office of ~~State~~ Information
20 Technology Services on October 1, January 1, and June 1 of each fiscal year in order to
21 allow for bulk purchasing."

22 **SECTION 72.(a)** G.S. 147-33.97 reads as rewritten:

23 **"§ 147-33.97. Information technology procurement policy; reporting
24 requirements.**

25 (a) Policy. – In order to further the policy of the State to encourage and promote
26 the use of small, minority, physically handicapped, and women contractors in State
27 purchasing of goods and services, all State agencies covered by this Part shall cooperate
28 with the Office in efforts to encourage the use of small, minority, physically
29 handicapped, and women contractors in achieving the purpose of this Part, which is to
30 provide for the effective and economical acquisition, management, and disposition of
31 information technology.

32 (a1) A vendor submitting a bid shall disclose in a statement, provided
33 contemporaneously with the bid, where services will be performed under the contract
34 sought, including any subcontracts and whether any services under that contract,
35 including any subcontracts, are anticipated to be performed outside the United States.
36 Nothing in this section is intended to contravene any existing treaty, law, agreement, or
37 regulation of the United States.

38 (a2) The State Chief Information Officer shall retain the statements required by
39 subsection (a1) of this section regardless of the State entity that awards the contract and
40 shall report annually to the Secretary of Administration on the number of contracts
41 which are anticipated to be performed outside the United States.

42 (b) Reporting. – Every State agency that makes a direct purchase of information
43 technology using the services of the Office shall report directly to the Department of
44 Administration all information required by G.S. 143-48(b).

1 (c) The Department of Administration shall collect and compile the data
2 described in this section and report it annually to the Office."

3 **SECTION 72.(b)** This section becomes effective October 1, 2005, and
4 applies to all bids submitted on or after that date.

5 **SECTION 73.** G.S. 160A-164.2 reads as rewritten:

6 "**§ 160A-164.2. Criminal history record check of employees permitted.**

7 The council may adopt or provide for rules and regulations or ordinances concerning
8 a requirement that any applicant for employment be subject to a criminal history record
9 check of State and National Repositories of Criminal Histories conducted by the
10 Department of Justice in accordance with G.S. ~~114-19.12.~~114-19.14. The city may
11 consider the results of these criminal history record checks in its hiring decisions."

12 **SECTION 74.** G.S. 160A-270(c), as amended by Section 4 of S.L.
13 2005-227, reads as rewritten:

14 "(c) The council may conduct auctions of real or personal property electronically
15 by authorizing the establishment of an electronic auction procedure or by authorizing
16 the use of existing private or public electronic auction services. Notice of an electronic
17 auction of property shall identify, in addition to the information required in subsections
18 (a) and (b) of this section, the electronic address where information about the property
19 to be sold can be found and the electronic address where electronic bids may be posted.
20 Notice may be published in a newspaper having general circulation in the political
21 subdivision or by electronic means, or both. A decision to publish notice solely by
22 electronic means for a particular ~~contract-auction~~ or for all ~~contracts-auctions~~ under this
23 subsection shall be approved by the governing board of the political subdivision. Except
24 as provided in this subsection, all requirements of subsections (a) and (b) of this section
25 apply to electronic auctions."

26 **SECTION 75.** Part 8 of Article 19 of Chapter 160A of the General Statutes
27 is amended by adding a new section to read:

28 "**§ 160A-459. Stormwater control.**

29 A city may adopt and enforce a stormwater control ordinance as authorized by Part 1
30 of Article 21 of Chapter 143 of the General Statutes. A stormwater control ordinance
31 adopted pursuant to this section must at least meet all of the minimum requirements of
32 Part 1 of Article 21 of Chapter 143 of the General Statutes."

33 **SECTION 75.5.(a)** If House Bill 1115, 2005 Regular Session, becomes law,
34 then Section 16 of that act is repealed.

35 **SECTION 75.5.(b)** Article 12A of Chapter 163 of the General Statutes is
36 amended by adding a new section to read:

37 "**§ 163-132.1B. Participation in 2010 Census Redistricting Data Program of the**
38 **United States Bureau of the Census.**

39 (a) Purpose. – The State of North Carolina shall participate in the 2010 Census
40 Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States
41 Bureau of the Census, so that the State will receive 2010 Census data by voting precinct
42 and be able to revise districts at all levels without splitting precincts and in compliance
43 with the United States and North Carolina Constitutions and the Voting Rights Act of
44 1965, as amended.

1 (b) Additional Rules. – In addition to directives promulgated by the Executive
2 Director of the State Board of Elections under G.S. 163-132.4, the Legislative Services
3 Commission may promulgate rules to implement this section."

4 **SECTION 76.(a)** If Senate Bill 223, 2005 Regular Session, becomes law,
5 then G.S. 163-165.7(a) as enacted by that act reads as rewritten:

6 "(a) Only voting systems that have been certified by the State Board of Elections
7 in accordance with the procedures and subject to the standards set forth in this section
8 and that have not been subsequently decertified shall be permitted for use in elections in
9 this State. Those certified voting systems shall be valid in any election held in the State
10 or in any county, municipality, or other electoral district in the State. Subject to all other
11 applicable rules adopted by the State Board of Elections and, with respect to federal
12 elections, subject to all applicable federal regulations governing voting systems, paper
13 ballots marked by the voter and counted by hand shall be deemed a certified voting
14 system. The State Board of Elections shall certify optical scan voting systems, optical
15 scan with ballot markers voting systems, and direct record electronic voting systems if
16 any of those systems meet all applicable requirements of federal and State law. The
17 State Board may certify additional voting systems only if they meet the requirements of
18 the request for proposal process set forth in this section and only if they generate either
19 a paper ballot or a paper record by which voters may verify their votes before casting
20 them and which provides a backup means of counting the vote that the voter casts.
21 Those voting systems may include optical scan and direct record electronic (DRE)
22 voting systems. In consultation with the Office of Information Technology Services, the
23 State Board shall develop the requests for proposal subject to the provisions of this
24 Chapter and other applicable State laws. Among other requirements, the request for
25 proposal shall require at least all of the following elements:

- 26 (1) That the vendor post a bond or letter of credit to cover damages
27 resulting from defects in the voting system. Damages shall include,
28 among other items, any costs of conducting a new election attributable
29 to those defects.
- 30 (2) That the voting system comply with all federal requirements for voting
31 systems.
- 32 (3) That the voting system must have the capacity to include in precinct
33 returns the votes cast by voters outside of the voter's precinct as
34 required by G.S. 163-132.5G.
- 35 (4) With respect to electronic voting systems, that the voting system
36 generate a paper record of each individual vote cast, which paper
37 record shall be maintained in a secure fashion and shall serve as a
38 backup record for purposes of any hand-to-eye count, hand-to-eye
39 recount, or other audit. Electronic systems that employ optical scan
40 technology to count paper ballots shall be deemed to satisfy this
41 requirement.
- 42 (5) With respect to DRE voting systems, that the paper record generated
43 by the system be viewable by the voter before the vote is cast
44 electronically, and that the system permit the voter to correct any

1 discrepancy between the electronic vote and the paper record before
2 the vote is cast.

3 (6) With respect to all voting systems using electronic means, that the
4 vendor provide access to all of any information required to be placed
5 in escrow by a vendor pursuant to G.S. 163-165.9A for review and
6 examination by the State Board of Elections; the Office of Information
7 Technology Services; the State chairs of each political party
8 recognized under G.S. 163-96; the purchasing county; and designees
9 as provided in subdivision (9) of subsection (d) of this section.

10 (7) That the vendor must quote a statewide uniform price for each unit of
11 the equipment.

12 (8) That the vendor must separately agree with the purchasing county that
13 if it is granted a contract to provide software for an electronic voting
14 system but fails to debug, modify, repair, or update the software as
15 agreed or in the event of the vendor having bankruptcy filed for or
16 against it, the source code described in G.S. 163-165.9A(a) shall be
17 turned over to the purchasing county by the escrow agent chosen under
18 G.S. 163-165.9A(a)(1) for the purposes of continuing use of the
19 software for the period of the contract and for permitting access to the
20 persons described in subdivision (6) of this subsection for the purpose
21 of reviewing the source code.

22 In its request for proposal, the State Board of Elections shall address the mandatory
23 terms of the contract for the purchase of the voting system and the maintenance and
24 training related to that voting system.

25 ~~No~~ If a voting system was acquired or upgraded by a county before August 1, 2005,
26 shall be used in an election during or after 2006 unless the county shall not be required
27 to go through the purchasing process described in this subsection if the county can
28 demonstrate to the State Board of Elections compliance with the requirements in
29 subdivisions (1) through (6) and subdivision (8) of this subsection, where those
30 requirements are applicable to the type of voting system involved. If the county cannot
31 demonstrate to the State Board of Elections that the voting system is in compliance with
32 those subdivisions, the county board shall not use the system in an election during or
33 after 2006, and the county shall be subject to the purchasing requirements of this
34 subsection."

35 **SECTION 76.(b)** If Senate Bill 223, 2005 Regular Session, becomes law,
36 then G.S. 163-182.1(b)(1), as enacted by Section 5 of that act, reads as rewritten:

37 "(1) Provide for a sample hand-to-eye count of the paper ballots or paper
38 records of a statewide ballot item in every county. The presidential
39 ballot item shall be the subject of the sampling in a presidential
40 election. If there is no statewide ballot item, the State Board shall
41 provide a process for selecting district or local ballot items to
42 adequately sample the electorate. The sample chosen by the State
43 Board shall be of one or more full precincts, full counts of mail
44 absentee ballots, ~~and~~ full counts of one or more one-stop early voting

1 ~~sites-sites~~, or a combination. The size of the sample of each category
2 shall be chosen to produce a statistically significant result and shall be
3 chosen after consultation with a statistician. The actual units shall be
4 chosen at random. In the event of a material discrepancy between the
5 electronic or mechanical count and a hand-to-eye count, the
6 hand-to-eye count shall control, except where paper ballots or records
7 have been lost or destroyed or where there is another reasonable basis
8 to conclude that the hand-to-eye count is not the true count. If the
9 discrepancy between the hand-to-eye count and the mechanical or
10 electronic count is significant, a complete hand-to-eye count shall be
11 conducted."

12 **SECTION 76.(c)** If Senate Bill 223, 2005 Regular Session, becomes law,
13 then G.S. 163-182.2(b)(1a), as enacted by Section 5 of that act, reads as rewritten:

14 "(1a) For optical scan and direct record electronic voting systems, and for any other
15 voting systems in which ballots are counted other than on paper by hand and eye, those
16 rules shall provide for a sample hand-to-eye count of the paper ballots or paper records
17 of a sampling of a statewide ballot item in every county. The presidential ballot item
18 shall be the subject of the sampling in a presidential election. If there is no statewide
19 ballot item, the State Board shall provide a process for selecting district or local ballot
20 items to adequately sample the electorate. The sample chosen by the State Board shall
21 be of one or more full precincts, full counts of mailed absentee ballots, and full counts
22 of one or more one-stop early voting sites. The size of the sample of each category shall
23 be chosen to produce a statistically significant result and shall be chosen after
24 consultation with a statistician. The actual units shall be chosen at random. In the event
25 of a material discrepancy between the electronic or mechanical count and a hand-to-eye
26 count, the hand-to-eye count shall control, except where paper ballots or records have
27 been lost or destroyed or where there is another reasonable basis to conclude that the
28 hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye
29 count and the mechanical or electronic count is significant, a complete hand-to-eye
30 count shall be conducted. The sample count need not be done on election night."

31 **SECTION 76.(d)** If Senate Bill 223, 2005 Regular Session, becomes law,
32 then Section 2(b) of that act reads as rewritten:

33 "**SECTION 2.(b)** This section applies with respect to purchase or upgrade of any
34 voting system on or after August 1, 2005. The criminal and civil penalties enacted in
35 this section become effective December 1, 2005, and apply to violations on or after that
36 date."

37 **SECTION 76.(e)** If Senate Bill 223, 2005 Regular Session, becomes law,
38 then Section 7 of that act is repealed.

39 **SECTION 77.** Section 11 of Chapter 149 of the 1931 Session Laws, as
40 amended by Chapter 255 of the 1947 Session Laws and Chapter 745 of the 1953
41 Session Laws and Chapter 20 of the 1985 Session Laws and Section 42 of Chapter 199
42 of the 2004 Session Laws, is rewritten to read:

43 "Sec. 1. The term of the School Board shall be for four years and the governing body
44 of the City of Asheville shall, during the month of March 2007 and quadrennially

1 thereafter, appoint or elect two persons to the Board for four-year terms or until their
2 successors are elected and qualified, and, during the month March 2009 and
3 quadrennially thereafter, appoint or elect three persons to the Board for four-year terms
4 or until their successors are elected and qualified. All Board members shall be residents
5 of the Asheville City School District and shall be persons known to be in favor of public
6 education and interested in the welfare of the schools and shall be appointed or elected
7 with the sole object in view of maintaining the efficiency of the schools of said district
8 and without any partisan prejudice or bias. If any vacancy in the membership of said
9 board occurs by reasons of death or resignation or otherwise the governing body of the
10 City of Asheville shall fill the same appointment or election. Terms shall begin on April
11 1 and in April 2007, and each biennial year thereafter, the Board shall meet and elect a
12 chairman, who will preside over the meetings of the Board. A majority of the members
13 of the Board shall constitute a quorum and the chairman or two members may call a
14 meeting.

15 Sec. 2. That all laws and clauses in conflict with this Act are hereby repealed.

16 Sec. 3. That this Act shall be effective when it becomes law."

17 **SECTION 78.** Chapter 273 of the 1983 Session Laws, as amended by
18 Section 127 of Chapter 1034 of the 1983 Session Laws, is amended by adding the
19 following new sections to read:

20 "Section 1.2. Beginning with fiscal year 2007-2008 and every fiscal year thereafter,
21 the Burke County Board of Commissioners may appropriate up to ten percent (10%) of
22 the anticipated revenues in Section 1(2) of the Act to the local current expense fund of
23 the Burke County Board of Education. All remaining revenues shall be appropriated by
24 the Burke County Board of Commissioners to the local capital outlay fund of the Burke
25 County Board of Education.

26 Section 1.3. In the alternative to Section 1.2 above, during any fiscal year in which
27 the anticipated revenues by the Burke County Board of Commissioners for
28 appropriation under Section 1(2) of the Act exceed the amount of seven million dollars
29 (\$7,000,000.00), the Burke County Board of Commissioners may appropriate an
30 amount equal to fifty percent (50%) of the revenues designated for school capital
31 expenditures and debt under Article 42 of Chapter 105 of the North Carolina General
32 Statutes from the anticipated revenues appropriated under Section 1(2) of the Act to (1)
33 the Burke County Board of Commissioners' general fund, (2) the local current expense
34 fund of the Burke County Board of Education as part of its appropriation to that fund, or
35 (3) both funds.

36 Section 1.4. In the event that the Burke County Board of Education receives
37 additional capital outlay revenues from a fund or source other than those in existence on
38 or before August 3, 2005 ("the Additional Capital Revenue"), then, to the extent
39 permitted by applicable law, the Board of Commissioners may appropriate up to fifty
40 percent (50%) of the value of the Additional Capital Revenue appropriated for use to or
41 used by the Board of Education in any fiscal year from the revenues appropriated under
42 Section 1(2) of the Act to (1) the Burke County Board of Commissioners' general fund,
43 (2) the local current expense fund of the Board of Education as part of its appropriation

1 to that fund, or (3) both funds. In no event shall the amount of this appropriation exceed
2 the anticipated revenues appropriated under Section 1(2) of the Act."

3 **SECTION 79.** Section 4 of S.L. 1991-1012 is repealed.

4 **SECTION 80.** Section 11.69 of S.L. 1997-443, as rewritten by Section 3 of
5 S.L. 2001-234, reads as rewritten:

6 "SECTION 3. Section 11.69(b2) of S.L. 1997-443, as amended by Section
7 12.16C(a) of S.L. 1998-212, and as further amended by Section 1 of S.L. 1999-135 as
8 amended by Section 11.9(a) of S.L. 2000-67, reads as rewritten:

9 "(b2) Notwithstanding the provisions of subsection (b1) of this section, any person
10 who obtained an exemption under subsection (b) of this section for the construction of a
11 new building that is not connected to any other existing structure by more than a
12 protected walkway, and who obligated one or more Qualifying Financial Commitments
13 for the construction of the building of a value totaling at least twenty-five thousand
14 dollars (\$25,000), before January 1, 2001, may proceed to develop the beds and obtain a
15 license for the operation of the beds if all of the following conditions are met.
16 Exemptions that were received for increases in bed capacity of existing buildings must
17 meet the requirements set forth in subsection (b1) of this section.

18 (1) No later than the close of business on June 1, 2004, the person granted
19 the exemption shall submit to the Department of Health and Human
20 Services fully executed copies of loan closing papers for a loan to the
21 exempted person or a letter from a certified public accountant which
22 states that liquid reserves have been placed in a separately identified
23 account for the exempted person that document sufficient funding to
24 cover the entire capital cost of the project for which the exemption was
25 granted.

26 (2) Not later than the close of business on December 1, 2004, the person
27 granted the exemption shall submit to the Department of Health and
28 Human Services documentation from the builder or architect that the
29 foundation and footings of the facility for which the exemption was
30 granted have been completed.

31 (3) Not later than the close of business on June 30, 2006, the person
32 granted the exemption who has met the requirements set forth in
33 subdivisions (1) and (2) of this subsection shall submit to the
34 Department of Health and Human Services a copy of the certificate of
35 occupancy from the building inspector for the facility for which the
36 exemption was granted.

37 For the purposes of this subsection, "Qualifying Financial Commitments" includes
38 any and all of the following expenses: (i) zoning fees and expenses; (ii) marketing and
39 other demographic research and studies; (iii) site preparation costs including soil testing
40 and soil boring costs; (iv) water and sewer improvements; (v) professional fees
41 associated with the foregoing activities and which are otherwise connected to the
42 development of the site, including accounting, architectural, engineering, and legal
43 fees."

44 **SECTION 81.(a)** Section 4 of S.L. 2005-16 reads as rewritten:

1 ~~"SECTION 4. This act is effective when it becomes law.~~becomes effective July 1,
2 2005."

3 **SECTION 81.(b)** This section becomes effective April 26, 2005.

4 **SECTION 82.** The introductory language of Section 5 of S.L. 2005-123
5 reads as rewritten:

6 **"SECTION 5.** G.S. 47-46.1 and G.S. 47-46.2 read as rewritten:"

7 **SECTION 83.** The prefatory language in Section 19 of S.L. 2005-210 is
8 amended by deleting: "58-37(1)" and substituting "58-37-35(1)".

9 **SECTION 84.(a)** Section 1 of S.L. 2005-256 is amended by adding a new
10 subdivision to read:

11 "(13) If any polling place that had been a satellite voting place in 2004 under
12 G.S. 163-130 is designated as a voting center, the county board of
13 elections may provide in its Plan of Implementation that only voters
14 assigned to the satellite voting place may vote at the voting center
15 there, and that such voters may not vote at any other voting center on
16 election day."

17 **SECTION 84.(b)** S.L. 2005-256 is amended by adding a new section to
18 read:

19 **"SECTION 1.1.** If no elections are conducted under this act in 2005, then any or all
20 elections occurring in 2007 may also be held under this act in addition to those in 2006."

21 **SECTION 85.** S.L. 2005-276 is amended by adding the following two new
22 sections to read:

23 **"BIENNIAL REPORT THAT HIGHLIGHTS THE IMPACT OF EDUCATION**
24 **PREPARATION ON ECONOMIC GROWTH**

25 **SECTION 7.44.** The North Carolina Board of Science and Technology shall
26 prepare a biennial report by county on the status of trends that reflect the impact of
27 education on economic growth for the twenty-first century. This report shall contain
28 information about the status of each county with regard to education and economic
29 growth.

30 The Board shall report to the 2007 Regular Session of the 2007 General Assembly
31 on or before April 1, 2007, and biennially thereafter, and shall make the report available
32 for citizens.

33
34 **"PLANNING FOR BETTER COLLECTION OF INFRASTRUCTURE**
35 **INFORMATION**

36 **SECTION 7.45.(a)** The Office of State Budget and Management shall
37 conduct a study to determine the best methods to collect, manage, and provide access to
38 information about technology, water, sewer, and other modern infrastructures needed to
39 assist communities in becoming and remaining economically viable.

40 **SECTION 7.45.(b)** The Office of State Budget and Management shall report
41 the results of this study to the 2006 Regular Session of the 2005 General Assembly. The
42 report shall include legislative proposals, including a proposal to define the term
43 "infrastructure" in the General Statutes to include modern communication
44 technologies."

1 **SECTION 87.(a)** Section 10.40D of S.L. 2005-276 is amended by adding a
2 new subsection to read:

3 **"SECTION 10.40D.(e)** The Department of Health and Human Services, the
4 Department of Public Instruction, and representatives of local school administrative
5 units shall examine the policies regarding the administration of medications in school
6 and make recommendations regarding the use of medication aides in the public schools.
7 The Secretary of Health and Human Services and the Chair of the Board of Education
8 shall convene a task force consisting of representatives of the agencies listed above and
9 other interested parties. The Task Force shall develop recommendations for the
10 Secretary and the Chair by April 1, 2006."

11 **SECTION 87.(b)** Section 10.40D(f) of S.L. 2005-276 is repealed.

12 **SECTION 88.** Section 10.11(t) of S.L. 2005-276 reads as rewritten:

13 **"SECTION 10.11.(t)** For the purposes of determining eligibility for Medical
14 Assistance, the Department of Health and Human Services may apply federal transfer of
15 assets policies, as described in Title XIX, section 1917(c) of the Social Security Act,
16 including the attachment of liens, to (i) life estates purchased by or on behalf of the
17 recipient, ~~other than life estates excluded from countable resources under this section,~~
18 and (ii) to real property excluded as "income producing", tenancy-in-common, or as
19 nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of
20 the Social Security Act. The transfer of assets policy shall apply only to an
21 institutionalized individual or the individual's spouse as defined in Title XIX, section
22 1917(c) of the Social Security Act. The Department shall exclude from countable
23 resources ~~any only a~~ life estate in real property that ~~is in the recipient's home, meets the~~
24 definition of homesite and is measured by the recipient's ~~life, and is the result of the~~
25 transfer of a remainder interest. ~~life.~~

26 Federal transfer of assets policies applied to "income producing" real property under
27 Title XIX, section 1902(r)(2) of the Social Security Act shall become effective not
28 earlier than October 1, 2001. Federal transfer of assets policies and attachment of liens
29 applied to real property excluded as tenancy-in-common, or as nonhomesite property
30 made "income producing" in accordance with this subsection shall become effective not
31 earlier than November 1, 2002. Federal transfer of assets policies applied to life estates
32 in accordance with this subsection shall become effective not earlier than October 1,
33 2005."

34 **SECTION 89.(a)** G.S. 143B-267, as amended by Section 17.25(a) of S.L.
35 2005-276, reads as rewritten:

36 **"§ 143B-267. Post-Release Supervision and Parole Commission – members;
37 selection; removal; chairman; compensation; quorum; services.**

38 Effective ~~August 1, 2005,~~ September 1, 2005, the Post-Release Supervision and
39 Parole Commission shall consist of one full-time member and two half-time members.
40 The three members shall be appointed by the Governor from persons whose recognized
41 ability, training, experience, and character qualify them for service on the Commission.
42 The terms of office of any members serving on the Commission on ~~June 30,~~
43 ~~2005,~~ August 31, 2005, shall expire on that date. The terms of office of persons
44 appointed by the Governor as members of the Commission shall be for four years or

1 until their successors are appointed and qualify. Any appointment to fill a vacancy on
2 the Commission created by the resignation, removal, death or disability of a member
3 shall be for the balance of the unexpired term only.

4 The Governor shall have the authority to remove any member of the Commission
5 from office for misfeasance, malfeasance or nonfeasance, pursuant to the provisions of
6 G.S. 143B-13. The Governor shall designate a member of the Commission to serve as
7 chair of the Commission at the pleasure of the Governor.

8 The granting, denying, revoking, or rescinding of parole, the authorization of
9 work-release privileges to a prisoner, or any other matters of business coming before the
10 Commission for consideration and action shall be decided by majority vote of the full
11 Commission.

12 The members of the Commission shall receive the salary fixed by the General
13 Assembly in the Current Operations Appropriations Act and shall receive necessary
14 travel and subsistence expenses in accordance with the provisions of G.S. 138-6.
15 Notwithstanding any other provision of law, the half-time members of the Commission
16 shall not be subject to the provisions of G.S. 135-3(8)(c).

17 All clerical and other services required by the Commission shall be supplied by the
18 Secretary of Correction."

19 **SECTION 89.(b)** Section 17.25 of S.L. 2005-276 reads as rewritten:

20 "**SECTION 17.25.(b)** This section becomes effective ~~June 30, 2005~~September 1,
21 2005."

22 **SECTION 89.5.** Section 17.30 of S.L. 2005-276 reads as rewritten:

23 "**SECTION 17.30.** The Department of Correction ~~may~~shall adjust the current
24 contract for 100 female residential substance abuse treatment beds to guarantee a one
25 hundred percent (100%) occupancy rate. The Department may use available funds for
26 this contract adjustment if necessary. Any contract adjustments shall be effective as
27 soon as practical but no later than October 1, 2005, and shall extend only through June
28 30, 2006."

29 **SECTION 90.** Section 28.10 of S.L. 2005-276 reads as rewritten:

30 "**DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED**
31 **CONTRACTS**

32 **SECTION 28.10.(a)** The Department of Transportation may implement up
33 to two performance-based contracts for routine maintenance and operations, exclusive
34 of resurfacing. Selection of firms to perform this work shall be made using a best-value
35 procurement process.

36 Prior to any advertisement for a proposed project, the Department shall report
37 to the Joint Legislative Transportation Oversight Committee on the contractor selection
38 criteria to be used.

39 **SECTION 28.10.(b)** For contracts authorized under this section,
40 notwithstanding G.S. 44A-26(a)(1) and (a)(2), the Department of Transportation may
41 require the bonds issued pursuant to Article 3 of Chapter 44A of the General Statutes
42 for public construction to be provided on a periodic basis and in the amount to cover
43 that specific period rather than for the entire project duration."

1 **SECTION 91.(a)** S.L. 2005-276 is amended by adding a new section to
2 read:

3 **"SECTION 31.1(jj)** If House Bill 1023, 2005 Regular Session, becomes law, then
4 that act is amended by adding a new section to read:

5 **'SECTION 10.4.** Section 10.3 of this act is effective for taxable years beginning on
6 or after January 1, 2005."

7 **SECTION 91.(b)** If G.S. 105-163.2B, as enacted by S.L. 2005-276,
8 becomes law, then G.S. 105-163.2B reads as rewritten:

9 **"§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

10 The North Carolina State Lottery Commission, established by Chapter 18C of the
11 General Statutes, must deduct and withhold State income taxes from the payment of
12 winnings ~~that are reportable to the Internal Revenue Service under section 3406 of the~~
13 ~~Code~~ in an amount of six hundred dollars (\$600.00) or more. The amount of taxes to be
14 withheld is seven percent (7%) of the winnings. The Commission must file a ~~return~~
15 ~~and return,~~ pay the withheld taxes, and report the amount withheld in the time and
16 manner required under G.S. 105-163.6 as if the winnings were wages. The taxes the
17 Commission withholds are held in trust for the Secretary."

18 **SECTION 91.(c)** If G.S. 114-19.16, as enacted by S.L. 2005-276, becomes
19 law, then G.S. 114-19.16 reads as rewritten:

20 **"§ 114-19.16. Criminal record checks for the North Carolina State Lottery**
21 **Commission and its Director.**

22 The Department of Justice may provide to the North Carolina State Lottery
23 Commission and to its Director from the State and National Repositories of Criminal
24 Histories the criminal history of any prospective employee of the Commission and any
25 prospective lottery vendor. The North Carolina State Lottery Commission or its Director
26 shall provide to the Department of Justice, along with the request, the fingerprints of the
27 prospective employee of the Commission, or of the prospective lottery vendor, a form
28 signed by the prospective employee of the Commission, or of the prospective vendor
29 consenting to the criminal record check and use of fingerprints and other identifying
30 information required by the State and National Repositories, and any additional
31 information required by the Department of Justice. The fingerprints of the prospective
32 employee of the Commission, or prospective lottery vendor, shall be forwarded to the
33 State Bureau of Investigation for a search of the State's criminal history record file, and
34 the State Bureau of Investigation shall forward a set of fingerprints to the Federal
35 Bureau of Investigation for a national criminal history record check. The North Carolina
36 State Lottery Commission and its Director shall remit any fingerprint information
37 retained by the Commission to alcohol law enforcement agents appointed under Article
38 5 of Chapter 18B of the General Statutes and shall keep all information obtained
39 pursuant to this section confidential. The Department of Justice shall charge a
40 reasonable fee only for conducting the checks of the ~~national~~ criminal history records
41 authorized by this section."

42 **SECTION 91.(d)** S.L. 2005-276 is amended by adding a new section to
43 read:

1 "SECTION 31.1.(kk) If House Bill 1023, 2005 Regular Session becomes law, then
2 that act is amended by adding a new section to read:

3 "SECTION 2.1. The State Education Assistance Authority shall report annually to
4 the Joint Legislative Commission on Governmental Operations regarding the use of the
5 funds allocated to the Authority under this act."

6 SECTION 91.5. Section 45.1(b) of S.L. 2005-276 reads as rewritten:

7 "SECTION 45.1.(b) This section is ~~effective when it becomes law~~.becomes
8 effective March 1, 2006."

9 SECTION 91.7. If House Bill 99, 2005 Regular Session, becomes law, then
10 G.S. 97-18, as enacted by Section 4 of that act, reads as rewritten:

11 "**§ 97-18. Prompt payment of compensation required; installments; payment**
12 **without prejudice; notice to Commission; penalties.**

13 ...

14 (c) If the employer or insurer denies the employee's right to compensation, the
15 employer or insurer shall notify the Commission, on or before the fourteenth day after it
16 has written or actual notice of the injury or death, or within such reasonable additional
17 time as the Commission may allow, and advise the employee in writing of its refusal to
18 pay compensation on a form prescribed by the Commission. This notification shall (i)
19 include the name of the employee, the name of the employer, the date of the alleged
20 injury or death, the insurer on the risk, if any, and a detailed statement of the grounds
21 upon which the right to compensation is denied, and (ii) advise the employee of the
22 employee's right to request a hearing pursuant to G.S. 97-83. If the employer or insurer,
23 in good faith, is without sufficient information to admit the employee's right to
24 compensation, the employer or insurer may deny the employee's right to compensation.

25 (d) In any claim for compensation in which the employer or insurer is uncertain
26 on reasonable grounds whether the claim is compensable or whether it has liability for
27 the claim under this Article, the employer or insurer may ~~deny the claim in good faith~~ or
28 initiate compensation payments without prejudice and without admitting liability. The
29 initial payment shall be accompanied by a form prescribed by and filed with the
30 Commission, stating that the payments are being made without prejudice. Payments
31 made pursuant to this subsection may continue until the employer or insurer contests or
32 accepts liability for the claim or 90 days from the date the employer has written or
33 actual notice of the injury or death, whichever occurs first, unless an extension is
34 granted pursuant to this section. Prior to the expiration of the 90-day period, the
35 employer or insurer may upon reasonable grounds apply to the Commission for an
36 extension of not more than 30 days. The initiation of payment does not affect the right
37 of the employer or insurer to continue to investigate or deny the compensability of the
38 claim or its liability therefor during this period. If at any time during the 90-day period
39 or extension thereof, the employer or insurer contests the compensability of the claim or
40 its liability therefor, it may suspend payment of compensation and shall promptly notify
41 the Commission and the employee on a form prescribed by the Commission. The
42 employer or insurer must provide on the prescribed form a detailed statement of its
43 grounds for denying compensability of the claim or its liability therefor. If the employer
44 or insurer does not contest the compensability of the claim or its liability therefor within

1 90 days from the date it first has written or actual notice of the injury or death, or within
2 such additional period as may be granted by the Commission, it waives the right to
3 contest the compensability of and its liability for the claim under this Article. However,
4 the employer or insurer may contest the compensability of or its liability for the claim
5 after the 90-day period or extension thereof when it can show that material evidence
6 was discovered after that period that could not have been reasonably discovered earlier,
7 in which event the employer or insurer may terminate or suspend compensation subject
8 to the provisions of G.S. 97-18.1.

9"

10 **SECTION 91.8.** If House Bill 99, 2005 Regular Session, becomes law, then
11 G.S. 97-25.6, as enacted by Section 6.1 of that act, reads as rewritten:

12 "**§ 97-25.6. Reasonable access to medical information.**

13 Notwithstanding the provisions of G.S. 8-53, any law relating to the privacy of
14 medical records or information, and the prohibition against ex parte communications at
15 common law, an employer or insurer paying medical compensation to a provider
16 rendering treatment under this Article may obtain records of the treatment without the
17 express authorization of the employee. In addition, with written notice to the employee,
18 the employer or insurer may obtain directly from a medical provider medical records of
19 evaluation or treatment restricted to a current injury or current condition for which an
20 employee is claiming compensation from that employer under this Article.

21 Any medical records or reports, restricted to conditions related to the injury or
22 illness for which the employee is seeking compensation, in the possession of the
23 employee shall be furnished by the employee to the employer when requested in writing
24 by the employer.

25 An employer or insurer paying compensation for an admitted claim or paying
26 without prejudice pursuant to G.S. 97-18(d) may communicate with an employee's
27 medical provider in writing, limited to specific questions promulgated by the
28 Commission, to determine, among other information, the diagnosis for the employee's
29 condition, the reasonable and necessary treatment, the anticipated time that the
30 employee will be out of work, the relationship, if any, of the employee's condition to the
31 employment, the restrictions from the condition, the kind of work for which the
32 employee may be eligible, the anticipated time the employee will be restricted, and the
33 permanent impairment, if any, as a result of the condition. When these questions are
34 used, a copy of the written communication shall be provided to the employee at the
35 same time and by the same means as the communication is provided to the provider.

36 Other forms of communication with a medical provider may be authorized by (i) a
37 valid written authorization voluntarily given and signed by the employee, (ii) by
38 agreement of the parties, or (iii) by order of the Commission issued upon a showing that
39 the information sought is necessary for the administration of the employee's claim and is
40 not otherwise reasonably obtainable under this section or through other provisions for
41 discovery authorized by the Commission's rules. In adopting rules or authorizing
42 employer communications with medical providers, the Commission shall protect the
43 employee's right to a confidential physician-patient relationship while facilitating the
44 release of information necessary to the administration of the employee's claim.

1 Upon motion by an employee or provider from whom medical records or reports are
 2 sought or upon its own motion, for good cause shown, the Commission may make any
 3 order which justice requires to protect an employee or other person from unreasonable
 4 annoyance, embarrassment, oppression, or undue burden or expense.

5 A health care provider may charge reasonable fees in accordance with G.S. 97-26.1
 6 for services caused by this section subject to the approval of the Commission."

7 **SECTION 92.** If House Bill 105, 2005 Regular Session, becomes law, then
 8 the lead-in language for Section 59.2(a) of that act reads as rewritten:

9 "**SECTION 59.2.(a)** G.S. 105-114(a4) reads as rewritten:".

10 **SECTION 93.(a)** If House Bill 128, 2005 Regular Session, becomes law,
 11 then G.S. 163-278.19(a2), as enacted by Section 4.1(b) of that act, reads as rewritten:

12 "(a2) A financial institution may make a loan to a candidate or political committee
 13 if all of the following conditions are met:

- 14 (1) The loan is made in accordance with applicable laws governing
 15 financial institutions.
- 16 (2) The loan is made in the ordinary course of business.
- 17 (3) ~~The~~ If the loan is secured, the loan is secured in the full amount by
 18 collateral ~~placed by~~ placed, or guaranties ~~given~~ given, by one or more
 19 individuals or entities who are not prohibited by this Article from
 20 making contributions to the candidate or political committee
 21 (subsequently referred to in this subsection as "guarantor").
- 22 (4) ~~The~~ If the loan is guaranteed, the amount of each guaranty or the value
 23 of the collateral posted by each guarantor does not exceed the
 24 contribution limitations applicable under this Article to that guarantor,
 25 except that the value of collateral posted by a guarantor may exceed
 26 the contribution limitations applicable under this Article in cases
 27 where the amount of the loan secured by that collateral does not itself
 28 exceed the contribution limitations applicable to the guarantor.
- 29 (5) If the loan is unsecured, only the candidate and the candidate's spouse
 30 may be liable for the loan.

31 During the time that any loan made under this subsection remains outstanding and
 32 unpaid, then the amount of any guaranty or the value of any collateral posted for that
 33 loan shall be considered to be a contribution by the guarantor for purposes of
 34 determining the eligibility of any additional contributions made by that guarantor. If the
 35 loan, or any portion of the loan, is repaid by the candidate or political committee to
 36 whom the loan was made during the contribution limitation period for the same
 37 "election" as defined in G.S. 163-278.13(d), in which the loan was made, the guarantor
 38 shall be eligible to further contribute to that candidate or political committee up to the
 39 amount of the repayment, as prorated to the amount of the guarantee or collateral repaid.
 40 That amount of the collateral or loan guarantee shall be treated as a refunded
 41 contribution and shall no longer count against the contribution limits under
 42 G.S. 163-278.13 for that election for that guarantor.

43 Only the ~~candidate~~ candidate, the candidate's spouse, or political committee to
 44 whom the loan was made may repay the loan.

1 The candidate or political committee shall report the loan on its campaign report
2 required by G.S. 163-278.9, but if the loan meets the criteria of this subsection, the loan
3 shall not be reported or otherwise treated as a contribution. The candidate or political
4 committee shall report the collateral or loan guaranties as contributions from the entities
5 providing them and shall indicate on the report the loan to which they relate. The State
6 Board of Elections shall develop methods of reporting to implement this subsection."

7 **SECTION 93.(b)** If House Bill 128, 2005 Regular Session, becomes law,
8 then Section 12 of that act reads as rewritten:

9 "**SECTION 12.** Sections 3 and 4 of this act ~~becomes~~become effective January 1,
10 2006. ~~Section 10(e)~~Sections 4.1 and 10 of this act become effective January 1, 2006,
11 and ~~applies~~apply to contributions and loans made or accepted on or after that date.
12 Contributions and loans made or accepted prior to that date shall count toward the
13 cumulative limit after that date. The remainder of this act is effective when it becomes
14 law."

15 **SECTION 93.5.** If House Bill 253, 2005 Regular Session, becomes law,
16 then G.S. 136-183B, as enacted by that act, reads as rewritten:

17 "**§ 136-89.183B. Accelerated Herbert C. Bonner Bridge Replacement Project.**

18 (a) Contract for Accelerated Construction of the Herbert C. Bonner Replacement
19 Bridge Project. – The Department of Transportation shall implement all reasonable
20 measures to expedite completion of environmental reviews required by the National
21 Environmental Policy Act. Within 90 days of receiving an approved Record of Decision
22 from the Federal Highway Administration, the Department shall contract with a single
23 private firm to design, obtain all necessary permits for, and construct design and build a
24 replacement bridge for the Herbert C. Bonner Bridge at Oregon Inlet, in accordance
25 with G.S. 136-28.11, in order to provide accelerated, expedite and accelerate the
26 efficient, and cost-effective completion of the project.

27 (b) Replacement Bridge; Termini. – The General Assembly recommends that the
28 replacement bridge constructed pursuant to this section shall be a replacement
29 bridge, located with north and south termini located in general proximity to the termini
30 of the existing Herbert C. Bonner Bridge. It is recognized, however, that the preferred
31 alternative for the bridge location cannot be determined prior to compliance with all
32 federal and State laws and regulations.

33 (c) Department to Report on Project. – ~~The Department shall prepare a request~~
34 ~~for proposals from private firms to complete the bridge project described in this section,~~
35 ~~and submit the request for proposals to the Joint Legislative Transportation Oversight~~
36 ~~Committee for review and comment, within 90 days after the effective date of this act.~~
37 ~~The Department shall issue the request for proposals to the public 30 days after~~
38 ~~submittal to the Committee for review.~~ The Department shall report to the Committee
39 on December 1, 2005, and each December 1 thereafter until completion, on the progress
40 of the accelerated bridge project described in this section."

41 **SECTION 94.(a)** If House Bill 328, 2005 Regular Session, becomes law,
42 then Section 5 of House Bill 328, 2005 Regular Session, is repealed.

43 **SECTION 94.(b)** The Town of Matthews may adopt ordinances, only after
44 holding public hearings, to regulate the removal of trees from public and private

1 property within the town in order to preserve, protect, and enhance one of the most
2 valuable natural resources of the community and to protect the health, safety, and
3 welfare of its citizens.

4 **SECTION 95.** If House Bill 392, 2005 Regular Session, becomes law, then
5 G.S. 18B-101(9), as amended by Section 1 of that act, reads as rewritten:

6 "(9) 'Malt beverage' means beer, lager, malt liquor, ale, porter, and any
7 other brewed or fermented beverage except unfortified or fortified
8 wine as defined by this Chapter, containing at least one-half of one
9 percent (0.5%), and not more than fifteen percent (15%), alcohol by
10 volume. Any malt beverage containing more than six percent (6%)
11 alcohol by volume shall bear a label clearly indicating the alcohol
12 content of the malt beverage."

13 **SECTION 96.** If House Bill 646, 2005 Regular Session, becomes law, then
14 Section 3 of that act reads as rewritten:

15 "**SECTION 3.** Part I of this act becomes effective ~~January 1, 2006~~, October 1, 2005,
16 and applies to applications filed, licenses issued, and licenses continued on or after that
17 date. The remainder of this act is effective when it becomes law."

18 **SECTION 97.** If House Bill 1375, 2005 Regular Session, becomes law, then
19 Section 6 of House Bill 1375, 2005 Regular Session, reads as rewritten:

20 "**SECTION 6.** Section 1 of this act becomes effective ~~July 1, 2007~~, January 1, 2007.
21 The remainder of the act is effective 90 days after it becomes law."

22 **SECTION 98.** If both House Bill 1389, 2005 Regular Session, and House
23 Bill 1500, 2005 Regular Session, become law, then Section 4 of House Bill 1500, 2005
24 Regular Session, is repealed.

25 **SECTION 99.** If House Bill 1466, 2005 Regular Session, becomes law, then
26 G.S. 14-112.2(c), as enacted by Section 2 of that act, reads as rewritten:

27 "(c) It is unlawful for a person, who knows or reasonably should know that an
28 elder adult or disabled adult lacks the capacity to consent, to obtain or use, endeavor to
29 obtain or use, or conspire with another to obtain or use an elder adult's or disabled
30 adult's funds, assets, or property with the intent to temporarily or permanently deprive
31 the elder adult or disabled adult of the use, benefit, or possession of the funds, assets, or
32 property, or benefit someone other than the elder adult or disabled adult. This
33 subsection shall not apply to a person acting within the scope of ~~their~~ that person's
34 lawful authority as the agent for the elder adult or disabled adult."

35 **SECTION 100.** If Senate Bill 974, 2005 Regular Session, becomes law,
36 Section 4 of Senate Bill 974, 2005 Regular Session, reads as rewritten:

37 "**SECTION 4.** The Commission shall issue a special occasion permit under
38 G.S. 18B-1001(8) to a mixed beverage permittee in a sports facility occupied by a major
39 league professional sports team with suites available for sale or lease to patrons of the
40 facility to authorize patrons to make available alcoholic beverages in those suites as if
41 the patron were a host of a reception, party or other special occasion. If the patron
42 occupying the suite so desires, alcoholic beverages by self-service may be made
43 available to any person at least 21 years of age possessing a valid ticket to the event
44 authorizing that person to occupy the suite. At no event may the patron make available a

1 quantity of alcoholic beverages in excess of the amount a person is allowed to buy
2 under G.S. 18B-303(a). A mixed beverage permittee who holds a permit shall provide
3 mixed beverage tax paid spirituous liquor for resale by the container in approved sizes
4 of no larger than 750 milliliters to the host or patron of the suite. This section does not
5 authorize any person possessing a valid ticket to an event at the facility to bring
6 alcoholic beverages onto the premises and consume those alcoholic beverages on the
7 premises, or to remove those beverages from the suite.

8 **SECTION 101.** Section 10.40B of S.L. 2005-276 reads as rewritten:

9 **"SECTION 10.40B.(a)** Notwithstanding provisions to the contrary in Chapter 150B
10 and Article 9 of Chapter 131E of the General Statutes, a licensed health care facility in
11 operation on July 1, 2005, developed under a certificate of need issued by the
12 Department of Health and Human Services prior to that date and subsequently
13 invalidated based on a procedural defect in the awarding of the certificate of need, may
14 remain in operation for the purpose of applying for a new certificate of need in
15 accordance with Article 9 of Chapter 131E of the General Statutes. The health care
16 facility may remain in operation for the period pending the decision of the Department
17 on the application for the new certificate of need date, may remain in operation until the
18 final disposition of any appeals, including remanded proceedings, of the Department's
19 decision awarding the certificate of need. If the final disposition after exhaustion of all
20 appeals and remanded proceedings is to reverse the Department's decision awarding the
21 certificate of need, the health care facility may remain in operation for the time
22 necessary to apply for a new certificate of need and during the pendency of the
23 Department's review of that application and any subsequent appeals of the Department's
24 final decision on that application.

25 **SECTION 10.40B.(b)** This section expires 30 days from the date of the
26 Department's decision on the new certificate of need or adjournment sine die of the
27 2005 General Assembly, whichever occurs later."

28 **SECTION 102.(a)** The Department of Labor shall adopt rules in connection
29 with its requirements regarding fall protection for tower climbers as follows:

- 30 (1) With regard to employer-provided rescue procedures, employers must
31 ensure that at least two trained and designated rescue employees are
32 on-site when employees are working at heights over six feet on the
33 tower, except that where only two employees are on-site, then an
34 employer may comply with this requirement if one employee is a
35 trained and designated rescue employee and one employee has been
36 employed for less than nine months and has received documented
37 orientation from the employer outlining steps to take in an emergency.
- 38 (2) With regard to third-party-provided rescue procedures, the employer
39 must obtain verification from the third-party rescue service that the
40 service is able to respond to a rescue summons in a timely manner and
41 that the service is proficient in rescue-related tasks and equipment
42 needed to rescue climbers from elevated heights on communication
43 structures. The employer must also provide the selected third-party
44 rescue service with contact information regarding the tower site and

1 allow the service to conduct whatever preparation for rescue it deems
2 necessary.

3 **SECTION 102.(b).** Notwithstanding G.S. 150B-21.1(a), the Department of
4 Labor may adopt the rules provided for by this section as temporary rules within 270
5 days after the effective date of this act.

6
7 **PART III. EFFECTIVE DATE**

8 **SECTION 103.** Except as otherwise provided, this act is effective when it
9 becomes law.