

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 602\*  
Commerce Committee Substitute Adopted 6/1/05  
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Short Title: 2005 Technical Corrections Act - 2.

(Public)

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Sponsors:

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Referred to:

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March 16, 2005

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

1       "(a) It is lawful for any nonprofit organization or association, recognized by the  
2 Department of Revenue as tax-exempt pursuant to G.S. 105-130.11(a), and for any  
3 government entity within the State, to conduct raffles in accordance with this section.  
4 Any person who conducts a raffle in violation of any provision of this section shall be  
5 guilty of a Class 2 misdemeanor. Upon conviction that person shall not conduct a raffle  
6 for a period of one year. It is lawful to participate in a raffle conducted pursuant to this  
7 section. It shall not constitute a violation of State law to advertise a raffle conducted in  
8 accordance with this section. A raffle conducted pursuant to this section is not  
9 "gambling"."

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

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

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

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

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

32       "**§ 14-407.1. Sale of blank cartridge pistols.**

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

40 North Carolina

41 \_\_\_\_\_ County

42 I, \_\_\_\_\_, ~~Clerk of the Superior Court~~ sheriff of said county, do hereby  
43 certify that \_\_\_\_\_, whose place of residence is \_\_\_\_\_ Street in  
44 \_\_\_\_\_ (or) in \_\_\_\_\_ Township in \_\_\_\_\_ County,

1 North Carolina, having this day satisfied me that the possession of a pistol suitable for  
 2 firing blank cartridges will be used only for lawful purposes, a permit is therefore given  
 3 said \_\_\_\_\_ to purchase said pistol from any person, firm or corporation  
 4 authorized to dispose of the same, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

5 \_\_\_\_\_  
 6 Clerk of Superior Court Sheriff

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

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

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

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

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

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

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

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

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

42 "(b) (1) Repealed by Session Laws 2004-203, s. 74(b), effective October 1,  
 43 2004.

44 ~~(2)~~ ~~because~~".

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

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

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

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

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

12          ~~Office of Information Technology Services".~~

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

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

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

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

34          "(g)    A career State employee with:

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

1                   the exempt managerial position if he or she had to vacate because of  
2                   violation of G.S. 126-14.2."

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

4                   "**§ 126-15.1. Probationary State employee defined.**

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

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

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

10                   "**§ 143B-405. North Carolina State Commission of Indian Affairs – purposes for  
11                   creation.**

12                   ~~The purposes of the Commission shall be~~ The purposes of the Commission shall be  
13                   as follows:

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

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

27                   "**§ 153A-129. Firearms.**

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

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

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

- 40                   (1) ~~Land that~~ The land is being taxed at present-use value pursuant to  
41                   G.S. 105-277.4.
- 42                   (2) ~~Land that~~ The land meets both of the following conditions:
  - 43                   a. On the date of the resolution of intent for annexation it was  
44                   being used for actual production and is eligible for present-use

1 value taxation under G.S. 105-277.4, but the land ~~has~~had not  
 2 been in use for actual production for the required time under  
 3 G.S. 105-277.3.

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

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

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

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

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

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

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

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

- 42 (1) If the plans submitted under the provisions of ~~G.S. 160A-35(3)e~~  
 43 G.S. 160A-35(3)b. require the construction of major trunk water mains  
 44 and sewer outfall lines and

1 (2) If contracts for such construction have not yet been let.  
2 If a writ is issued, costs in the action, including a reasonable attorney's fee for such  
3 aggrieved person, shall be charged to the municipality."

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

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

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

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

20 **SECTION 19.** G.S. 160A-215(g), as amended by S.L. 2005-16, S.L.  
21 2005-46, S.L. 2005-49, S.L. 2005-220, and S.L. 2005-233, reads as rewritten:

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

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

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

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

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

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

13 **"§ 163-296. Nomination by petition.**

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

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

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

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

36 **"§ 143-655. Fees; State Boxing ~~Commission~~ Revenue Account.**

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

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



1	Promoter	\$300.00
2	Referee	\$50.00
3	Timekeeper	\$50.00
4	Second	\$25.00.

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

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

10

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

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

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

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

23 ~~North Carolina Boxing Commission."~~

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

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

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

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

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

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

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

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

36

37 **PART II. OTHER CHANGES**

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

40 **SECTION 28.(b)** G.S. 160A-331.1, as enacted by Section 3 of S.L.  
 41 2005-150, reads as rewritten:

42 "**§ 160A-331.1. Construction of lines between June 1, 2005, and May 31, 2007.**

43 During the period beginning June 1, 2005, and ending May 31, 2007, a city shall not  
 44 construct or extend an electric distribution line outside of its corporate limits as of June

1 1, 2005, in territory assigned to an electric membership corporation by the North  
2 Carolina Utilities Commission without the written consent of the electric membership  
3 corporation. Provided, however, that the consent of an electric membership corporation  
4 shall not be required in connection with the proposed construction of an electric  
5 distribution line solely to serve a facility owned by a city. The electric membership  
6 corporation shall give its consent unless the electric membership corporation, in good  
7 faith, believes that the construction of the electric distribution line is not necessary to  
8 satisfy the reasonable needs of the public for the delivery of an adequate and reliable  
9 supply of electric energy and that, when compared with reasonable, alternative courses  
10 of action and locations, construction of the electric distribution line in the proposed  
11 location is not reasonable, preferred, in the public interest, and the most economical and  
12 practically feasible route to deliver electric energy in accordance with prudent utilities  
13 practice. Any dispute concerning the failure of the electric membership corporation to  
14 give its written consent shall be submitted to prelitigation mediation in accordance with  
15 ~~the provisions of G.S. 7A-38.3B.~~G.S. 7A-38.3C."

16 **SECTION 28.(c)** G.S. 160A-331.2(b), as enacted by Section 3 of S.L.  
17 2005-150, reads as rewritten:

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

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

32 **"§ 117-10.3. Construction of lines between June 1, 2005, and May 31, 2007.**

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

1 and the most economical and practically feasible route to deliver electric energy in  
2 accordance with prudent utilities practice. Any dispute concerning the failure of the  
3 municipality to give its written consent shall be submitted to prelitigation mediation in  
4 accordance with ~~the provisions of G.S. 7A-38.3B.~~ G.S. 7A-38.3C."

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

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

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

15 "(a) The Conference may:

16 ...

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

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

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

25 ...

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

38 ...."

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

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

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

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

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

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

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

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

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

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

4           ...

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

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

11       **"§ 105-501. Distribution of additional taxes.**

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

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

30           (1) The Department of Revenue in performing the duties imposed by  
31 G.S. 105-275.2 and by Article 15 of this Chapter.

32           (1a) Seventy percent (70%) of the expenses of the Department of Revenue  
33 in performing the duties imposed by Article 2D of this Chapter.

34           (2) The Property Tax Commission.

35           (3) The ~~Institute of Government~~ School of Government at the University  
36 of North Carolina at Chapel Hill in operating a training program in  
37 property tax appraisal and assessment.

38           (4) The personnel and operations provided by the Department of State  
39 Treasurer for the Local Government Commission."

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

41       **"§ 113A-4. Cooperation of agencies; reports; availability of information.**

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

43           ...

- 1 (3) The Governor, and any State agency charged with duties under this  
2 Article, may call upon any of the public institutions of higher  
3 education of this State for assistance in developing plans and  
4 procedures under this Article and in meeting the requirements of this  
5 Article, including without limitation any of the following units of the  
6 University of North Carolina: the Water Resources Research Institute,  
7 the Institute for Environmental Studies, the Triangle Universities  
8 Consortium on Air Pollution, and the ~~Institute of Government, School~~  
9 of Government at the University of North Carolina at Chapel Hill."

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

11 **"§ 115C-50. Training of board members.**

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

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

19 **"§ 120-129. Definitions.**

20 As used in this Article:

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

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

38 **"§ 120-161. Facilities and staff.**

39 The Commission may meet in the Legislative Building or the Legislative Office  
40 Building. Staff for the Commission shall be provided by the Legislative Services  
41 Commission. The Commission may contract with the ~~Institute of Government, School~~  
42 of Government at the University of North Carolina at Chapel Hill, the Local  
43 Government Commission, the Department of Environment and Natural Resources, or

1 other agencies as may be necessary in completing any required studies, within the funds  
2 appropriated to the Commission."

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

4 "**§ 122C-412.2. Planning Council; planning responsibility.**

5 The Butner Planning Council shall, in consultation with the Department of Health  
6 and Human Services, the Community Assistance Division of the Department of  
7 Commerce, the ~~Institute of Government~~, School of Government at the University of  
8 North Carolina at Chapel Hill, and other State and local agencies, prepare a long-range  
9 plan for the future development of the Camp Butner Reservation. This plan shall  
10 provide a blueprint for the development of the Reservation and the adjoining areas of  
11 Granville, Durham, and Person Counties and shall consider issues such as:

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

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

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

32 "**§ 143-64.24. Applicability of Article.**

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

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

41 "**§ 143-151.9. North Carolina Code Officials Qualification Board established;**  
42 **members; terms; vacancies.**

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

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

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

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

42 "(m) Ethics and Board Duties Education. – The Board shall institute by January 1,  
43 1999, and conduct annually an education program on ethics and on the duties and  
44 responsibilities of Board members. The training session shall be comprehensive in



1 nature and shall include input from the ~~Institute of Government~~, School of Government  
2 at the University of North Carolina at Chapel Hill, the North Carolina Board of Ethics,  
3 the Attorney General's Office, the University of North Carolina Highway Safety  
4 Research Center, and senior career employees of the various divisions of the  
5 Department. This program shall include an initial orientation for new members of the  
6 Board and continuing education programs for Board members at least once each year."

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

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

- 10 ...
- 11 (4) The following persons or their designees, ex officio:
  - 12 a. The Governor.
  - 13 b. The Lieutenant Governor.
  - 14 c. The Attorney General.
  - 15 d. The Secretary of the Department of Administration.
  - 16 e. The Secretary of the Department of Crime Control and Public  
17 Safety.
  - 18 f. The Superintendent of Public Instruction.
  - 19 g. The Secretary of the Department of Correction.
  - 20 h. The Secretary of the Department of Health and Human  
21 Services.
  - 22 i. The Director of the Office of State Personnel.
  - 23 j. The Executive Director of the North Carolina Council for  
24 Women.
  - 25 k. ~~The Director of the Institute of Government~~Dean of the School  
26 of Government at the University of North Carolina at Chapel  
27 Hill.
  - 28 l. The Chairman of the Governor's Crime Commission."

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

30 **"§ 147-54. Printing, distribution and sale of the North Carolina Manual.**

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

35 **NORTH CAROLINA STATE GOVERNMENT:**

36	Members of the General Assembly .....	1 ea.
37	Officers of the General Assembly .....	1 ea.
38	Offices of the Clerk of each House of the General Assembly .....	1 ea.
39	Legislative Services Officer .....	1
40	Legislative Library .....	6
41	Members of the Council of State .....	2 ea.
42	Appointed Secretaries of Executive Departments .....	2 ea.
43	Personnel of the Department of the Secretary of State .....	1 ea.
44	State Board of Elections .....	2

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

1 North Carolina Members of the Presidential Cabinet ..... 1 ea.  
 2 North Carolina Members of the United States Congress ..... 2 ea.  
 3 Library of Congress ..... 3  
 4 Resident Judges of the Federal Judiciary  
 5 and United States Attorneys in North Carolina ..... 1 ea.  
 6 Secretaries of State of the United States  
 7 and Territories ..... 1 ea.

8 After making the above distribution, the remainder shall be sold at the cost of  
 9 publication plus tax and postage and the proceeds from such sales deposited with the  
 10 State Treasurer for use by the Publications Division of the Secretary of State's Office to  
 11 defray the expense of publishing the North Carolina Manual. Libraries and educational  
 12 institutions not covered in the above distribution shall be entitled to a twenty percent  
 13 (20%) discount on the cost of any purchase(s)."

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

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

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

23 **SECTION 30.5.** G.S. 8C-1, Rule 103(a), reads as rewritten:

24 **"Rule 103. Rulings on evidence.**

25 (a) Effect of erroneous ruling. – Error may not be predicated upon a ruling which  
 26 admits or excludes evidence unless a substantial right of the party is affected, and

27 (1) Objection. – In case the ruling is one admitting evidence, a timely  
 28 objection or motion to strike appears of record. No particular form is  
 29 required in order to preserve the right to assert the alleged error upon  
 30 appeal if the motion or objection clearly presented the alleged error to  
 31 the trial court;

32 (2) Offer of proof. – In case the ruling is one excluding evidence, the  
 33 substance of the evidence was made known to the court by offer or  
 34 was apparent from the context within which questions were asked.  
 35 ~~Once the court makes a definitive ruling on the record admitting or~~  
 36 ~~excluding evidence, either at or before trial, a party need not renew an~~  
 37 ~~objection or offer of proof to preserve a claim of error for appeal.~~

38 Once the court makes a definitive ruling on the record admitting or excluding  
 39 evidence, either at or before trial, a party need not renew an objection or offer of proof  
 40 to preserve a claim of error for appeal."

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

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

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

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

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

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

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

28 "(b) The sheriff shall submit the fingerprints to the State Bureau of Investigation  
29 for a records check of State and national databases. The State Bureau of Investigation  
30 shall submit the fingerprints to the Federal Bureau of Investigation as necessary. The  
31 sheriff shall determine the criminal and background history of an applicant also by  
32 conducting a check through the National Instant Criminal Background Check System  
33 (NICS). The cost of processing the set of fingerprints shall be charged to an applicant as  
34 provided by G.S. 14-415.19."

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

36 "(a) After a finding of probable cause pursuant to the provisions of Article 30 of  
37 Chapter 15A of the General Statutes or indictment for an offense that involves  
38 nonconsensual vaginal, anal, or oral ~~intercourse,~~ intercourse; an offense that involves  
39 vaginal, anal, or oral intercourse with a child 12 years old or ~~less,~~ less; or an offense  
40 under G.S. 14-202.1 that involves vaginal, anal, or oral intercourse with a child less than  
41 16 years old, the victim or the parent, guardian, or guardian ad litem of a minor victim  
42 may request that a defendant be tested for the following sexually transmitted infections:

- 43 (1) Chlamydia;  
44 (2) Gonorrhea;

- 1 (3) Hepatitis B;
- 2 (3a) Herpes;
- 3 (4) HIV; and
- 4 (5) Syphilis.

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

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

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

10 (3) Whenever the Post-Release Supervision and Parole Commission will  
11 be considering for parole a prisoner serving a sentence of life  
12 imprisonment the Commission must notify, at least 30 days in advance  
13 of considering the parole, by first class mail at the last known address:

- 14 a. The prisoner;
- 15 b. The district attorney of the district where the prisoner was  
16 convicted;
- 17 c. The head of the law enforcement agency that arrested the  
18 prisoner, ~~if the head of the agency has requested in writing that~~  
19 ~~he be notified;~~ prisoner and the sheriff of the county where the  
20 crime occurred;
- 21 d. Any of the victim's immediate family members who have  
22 requested in writing to be notified; and
- 23 e. Repealed by Session Laws 1993, c. 538, s. 22.
- 24 f. As many newspapers of general circulation and other media in  
25 the county where the defendant was convicted and if different,  
26 in the county where the prisoner was charged, as reasonable.

27 The Post-Release Supervision and Parole Commission must  
28 consider any information provided by any such parties before  
29 consideration of parole. The Commission must also give the district  
30 attorney, the head of the law enforcement agency who has requested in  
31 writing to be notified, the victim, any member of the victim's  
32 immediate family who has requested to be notified, and as many  
33 newspapers of general circulation and other media in the county or  
34 counties designated in sub-subdivision f. of this section as reasonable,  
35 written notice of its decision within 10 days of that decision. The  
36 Parole Commission shall not, however, include the name of any victim  
37 in its notification to the newspapers and other media."

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

39 "(a) Appointment. – The Secretary of Crime Control and Public Safety shall  
40 appoint alcohol law-enforcement agents and other enforcement personnel. The  
41 Secretary of Crime Control and Public Safety may also appoint regular employees of  
42 the Commission as alcohol law-enforcement agents. Alcohol law-enforcement agents  
43 shall be designated as "alcohol law-enforcement agents". Persons serving as reserve  
44 alcohol law-enforcement agents are considered employees of the Division of Alcohol

1 Law Enforcement for workers' compensation purposes while performing duties assigned  
2 or approved by the Director of Alcohol Law Enforcement or the Director's designee."

3 **SECTION 35.2.** G.S. 20-7 reads as rewritten:

4 **"§ 20-7. Issuance and renewal of drivers licenses.**

5 ...

6 (b1) Application. – To obtain an identification card, learners permit, or drivers  
7 license from the Division, a person shall complete an application form provided by the  
8 Division, present at least two forms of identification approved by the Commissioner, be  
9 a resident of this State, and, except for an identification card, demonstrate his or her  
10 physical and mental ability to drive safely a motor vehicle included in the class of  
11 license for which the person has applied. At least one of the forms of identification shall  
12 indicate the applicant's residence address. The Division may copy the identification  
13 presented or hold it for a brief period of time to verify its authenticity. To obtain an  
14 endorsement, a person shall demonstrate his or her physical and mental ability to drive  
15 safely the type of motor vehicle for which the endorsement is required.

16 The application form shall request all of the following information, and it shall  
17 contain the disclosures concerning the request for an applicant's social security number  
18 required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579:

- 19 (1) The applicant's full name.
- 20 (2) The applicant's mailing address and residence address.
- 21 (3) A physical description of the applicant, including the applicant's sex,  
22 height, eye color, and hair color.
- 23 (4) The applicant's date of birth.
- 24 (5) The applicant's valid social security number.
- 25 (6) The applicant's signature.

26 ~~If an applicant does not have a valid social security number and is ineligible to~~  
27 ~~obtain one, the applicant shall swear to or affirm that fact under penalty of perjury. In~~  
28 ~~such case, the applicant may provide a valid Individual Taxpayer Identification Number~~  
29 ~~issued by the Internal Revenue Service to that person.~~

30 The Division shall not issue an identification card, learners permit, or drivers license  
31 to an applicant who fails to provide ~~either the applicant's valid social security number or~~  
32 ~~the applicant's valid Individual Taxpayer Identification Number.~~number.

33 ...

34 (f) Expiration and Temporary License. – The first drivers license the Division  
35 issues to a person expires on the person's fourth or subsequent birthday that occurs after  
36 the license is issued and on which the individual's age is evenly divisible by five, unless  
37 this subsection sets a different expiration date. A first drivers license may be issued for a  
38 shorter duration if the Division determines that a license of shorter duration should be  
39 issued when the applicant holds a visa of limited duration issued by the United States  
40 Department of ~~State.~~ Homeland Security. The first drivers license the Division issues to  
41 a person who is at least 17 years old but is less than 18 years old expires on the person's  
42 twentieth birthday. The first drivers license the Division issues to a person who is at  
43 least 62 years old expires on the person's birthday in the fifth year after the license is  
44 issued, whether or not the person's age on that birthday is evenly divisible by five.

1 A drivers license that was issued by the Division and is renewed by the Division  
2 expires five years after the expiration date of the license that is renewed unless the  
3 Division determines that a license of shorter duration should be issued when the  
4 applicant holds a visa of limited duration from the United States Department of State.  
5 Homeland Security, but in no event shall the duration of the license be longer than 30  
6 days beyond the expiration of the visa. A person may apply to the Division to renew a  
7 license during the 180-day period before the license expires. The Division may not  
8 accept an application for renewal made before the 180-day period begins.

9 The Division may renew by mail a drivers license issued by the Division to a person  
10 who meets any of the following descriptions:

- 11 (1) Is serving on active duty in the armed forces of the United States and  
12 is stationed outside this State.
- 13 (2) Is a resident of this State and has been residing outside the State for at  
14 least 30 continuous days.

15 When renewing a license by mail, the Division may waive the examination that  
16 would otherwise be required for the renewal and may impose any conditions it finds  
17 advisable. A license renewed by mail is a temporary license that expires 60 days after  
18 the person to whom it is issued returns to this State.

19 ...

20 (s) Notwithstanding the requirements of subsection (b1) of this section that an  
21 applicant present a valid social security number, the Division shall issue a drivers  
22 license of limited duration, under subsection (f) of this section, to an applicant present in  
23 the United States under a valid visa issued to the applicant by the United States  
24 Department of Homeland Security if the applicant presents that valid visa."

25 **SECTION 35.3.** G.S. 18B-1001(3) reads as rewritten:

26 "(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified  
27 wine permit authorizes the retail sale of unfortified wine for  
28 consumption on the premises, either alone or mixed with other  
29 beverages, and the retail sale of unfortified wine in the manufacturer's  
30 original container for consumption off the premises. It also authorizes  
31 the holder of the permit to ship unfortified wine in closed containers to  
32 individual purchasers inside and outside the State. Orders received by  
33 a winery by telephone, Internet, mail, facsimile, or other off-premises  
34 means of communication shall be shipped pursuant to a wine shipper  
35 permit and not pursuant to this subdivision. The permit may be issued  
36 for any of the following:

- 37 a. Restaurants;
- 38 b. Hotels;
- 39 c. Eating establishments;
- 40 d. Private clubs;
- 41 e. Convention centers;
- 42 f. Cooking schools;
- 43 g. Community theatres;
- 44 h. ~~Wineries.~~ Wineries;

1 i. Wine producers."

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

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

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

13 "**§ 20-114.2. Law enforcement motorized all-terrain vehicles permitted on**  
14 **highways with speed limits of 35 miles per hour or less.**

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

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

23 "**§ 20-114.3. Law enforcement and municipal employee motorized all-terrain**  
24 **vehicles permitted on highways with speed limits of 35 miles per hour or**  
25 **less.**

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

33 **SECTION 36.(c)** Section 3 of S.L. 2004-108, as amended by Section 1 of  
34 S.L. 2005-305, reads as rewritten:

35 "**SECTION 3.** Section 1 of this act applies to the County of Surry, the City of  
36 Albemarle-Albemarle, and the Towns of Beaufort, Southern Shores, and Mint Hill only.  
37 Section 2 of this act applies to the Towns of Duck, Kill Devil Hills, Kitty Hawk, Nags  
38 Head, and the City of Kings Mountain only."

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

40 "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and  
41 20-118(e).

42 ...



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

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

...."

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

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

- (1) Have an affirmative defense to any criminal charge based upon the failure to return any registration card or registration plate to the Division;
- (2) Upon reregistration, receive without cost from the Division all necessary registration cards or plates; and
- (3) Upon notice of revocation, be permitted to transfer the vehicle's registration immediately to their spouse, child, or spouse's child, notwithstanding the provisions of subsection (e) of this section."

**SECTION 38.5.** G.S. 44A-43(c)(2) reads as rewritten:

"(c) Public Sale. –

...

- (2) The sale must be held on a day other than Sunday and between the hours of ~~10:00 A.M.~~ 9:00 A.M. and 4:00 P.M.:

- 1 a. At the self-service storage facility or at the nearest suitable  
2 place to where the property is held or stored; or  
3 b. In the county where the obligation secured by the lien was  
4 contracted for.

5 ...."

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

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

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

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

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

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

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

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

32 ...

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

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

1 the security instrument or evidences of indebtedness and has caused  
2 the register of deeds to record the affidavit of loss or theft as a separate  
3 document, as required by G.S. 161-14.1.

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

15 (5) 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 (6) Security instruments satisfied of record prior to October 1, 2005,  
19 pursuant to this subdivision as it was in effect prior to October 1, 2005,  
20 shall be deemed satisfied of record, discharged, and released.

21 ...."

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

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

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

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

41 "(c) Any order may be extended one or more times, as required, provided that the  
42 requirements of G.S. 50C-6 or G.S. 50C-7, as appropriate, are satisfied. The court may  
43 renew an order, including an order that previously has been renewed, upon a motion by  
44 the complainant filed before the expiration of the current order. The court may renew

1 the order for good cause. The commission of an act of unlawful conduct by the  
2 respondent after entry of the current order is not required for an order to be renewed. If  
3 the motion for extension is uncontested and the complainant seeks no modification of  
4 the order, the order may be extended if the complainant's motion or affidavit states that  
5 there has been no material change in relevant circumstances since entry of the order and  
6 states the reason for the requested extension. Extensions may be granted only in open  
7 court and not under the provisions of ~~G.S. 50D-6(e)~~.G.S. 50D-6(d)."

8 **SECTION 44.(a)** G.S. 55-8-03(b), as amended by Section 7 of S.L.  
9 2005-268, reads as rewritten:

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

15 (1) The decrease is approved by the shareholders in a vote in which the  
16 number of shares ~~voting~~ entitled to be voted cumulatively that vote  
17 against the proposal for decrease would not be sufficient to elect a  
18 director by cumulative voting.

19 (2) The decrease is made pursuant to a provision of the articles of  
20 incorporation or bylaws fixing a minimum and maximum number of  
21 directors and authorizing the number of directors to be fixed or  
22 changed from time to time, within the maximum and the minimum, by  
23 the shareholders or, unless the articles of incorporation or an  
24 agreement valid under G.S. 55-7-31 provides otherwise, the board of  
25 directors."

26 **SECTION 44.(b)** G.S. 55-11-05(d), as enacted by Section 22 of S.L.  
27 2005-268, reads as rewritten:

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

33 **SECTION 44.(c)** G.S. 55-11-06(a)(1), as amended by Section 23 of S.L.  
34 2005-268, reads as rewritten:

35 "(1) Each other merging corporation merges into the surviving corporation  
36 and the separate existence of each merging corporation except the  
37 surviving corporation ceases."

38 **SECTION 44.(d)** G.S. 55A-11-04(d), as enacted by Section 40 of S.L.  
39 2005-268, reads as rewritten:

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

1           **SECTION 44.(e)** G.S. 55A-11-05, as amended by Section 41 of S.L.  
2 2005-268, reads as rewritten:

3 **"§ 55A-11-05. Effect of merger.**

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

- 6       (1) Each other merging corporation merges into the surviving corporation  
7       and the separate existence of each merging corporation except the  
8       surviving corporation ceases.
- 9       (2) The title to all real estate and other property owned by each merging  
10       corporation is vested in the surviving corporation without reversion or  
11       impairment subject to any and all conditions to which the property was  
12       subject prior to the merger.
- 13       (3) The surviving corporation has all liabilities and obligations of each  
14       merging corporation.
- 15       (4) A proceeding pending by or against any merging corporation may be  
16       continued as if the merger did not occur or the surviving corporation  
17       may be substituted in the proceeding for a merging corporation whose  
18       separate existence ceases in the merger.
- 19       (5) If a domestic corporation survives the merger, its articles of  
20       incorporation are amended to the extent provided in the articles of  
21       merger.
- 22       (6) If a foreign corporation or a foreign business corporation survives the  
23       merger, it is deemed:
  - 24       a. To agree that it may be served with process in this State in any  
25       proceeding for enforcement (i) of any obligation of any merging  
26       domestic corporation and (ii) of any obligation of the surviving  
27       foreign corporation or foreign business corporation arising from  
28       the merger.
  - 29       b. To have appointed the Secretary of State as its agent for service  
30       of process in any proceeding for enforcement as specified in  
31       sub-subdivision a. of this subdivision. Service of process on the  
32       Secretary of State shall be made by delivering to, and leaving  
33       with, the Secretary of State, or with any clerk authorized by the  
34       Secretary of State to accept service of process, duplicate copies  
35       of the process and the fee required by G.S. 55A-1-22(b). Upon  
36       receipt of service of process on behalf of a surviving foreign  
37       corporation or foreign business corporation in the manner  
38       provided for in this section, the Secretary of State shall  
39       immediately mail a copy of the process by registered or  
40       certified mail, return receipt requested, to the surviving foreign  
41       corporation or foreign business corporation. If the surviving  
42       foreign corporation or foreign business corporation is  
43       authorized to transact business or conduct affairs in this State,  
44       the address for mailing shall be its principal office designated in

1 the latest document filed with the Secretary of State that is  
2 authorized by law to designate the principal office, or if there is  
3 no principal office on file, its registered office. If the surviving  
4 foreign corporation or foreign business corporation is not  
5 authorized to transact business or conduct affairs in this State,  
6 the address for mailing shall be the mailing address designated  
7 pursuant to G.S. 55A-11-04(a)(2).

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

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

15 **SECTION 44.(f)** G.S. 55A-11-06(c), as enacted by Section 42 of S.L.  
16 2005-268, reads as rewritten:

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

20 **SECTION 44.(g)** G.S. 57C-9A-02(a2), as enacted by Section 47 of S.L.  
21 2005-268, reads as rewritten:

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

- 27 (1) Statistical or market indices, market prices of any security or group of  
28 securities, interest rates, currency exchange rates, or similar economic  
29 or financial data.
- 30 (2) A determination or action by the converting business entity or by any  
31 other person, group, or body.
- 32 (3) The terms of, or actions taken under, an agreement to which the  
33 converting business entity is a party, or any other agreement or  
34 document."

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

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

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

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

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

1           **SECTION 45.5.(a)** G.S. 62-212(c), as enacted by S.L. 2005-185, reads as  
2 rewritten:

3           "(c) Nothing contained in this section ~~effects~~affects a provision, clause, covenant,  
4 or agreement where the motor carrier indemnifies or holds harmless the contract's  
5 promisee against liability for damages to the extent that the damages were caused by  
6 and resulted from the negligence of the motor carrier, its agents, employees, servants, or  
7 independent contractors who are directly responsible to the motor carrier."

8           **SECTION 45.5.(b)** This section becomes effective October 1, 2005, and  
9 applies to contracts entered into on or after that date.

10          **SECTION 45.8.(a)** G.S. 58-50-30 is amended by adding the following new  
11 subsection to read:

12          "(g1) An insured beneficiary under a health benefit plan shall have the right to  
13 redeem a prescription drug benefit at any pharmacy. The insurer, third-party  
14 administrator, or any other entity providing a prescription drug benefit for the insurer  
15 shall redeem the prescription drug benefit and reimburse the pharmacy in the same  
16 manner, to the same extent, at the same rate, and on the same payment schedule as the  
17 insurer, third-party administrator, or other entity would to a pharmacy that is a party to a  
18 pharmacy provider contract. This subsection does not apply to the North Carolina  
19 Teachers' and State Employees' Comprehensive Major Medical Plan."

20          **SECTION 45.8.(b)** This section becomes effective January 1, 2006, and  
21 applies to health benefit plans delivered, issued for delivery, or renewed on and after  
22 that date.

23          **SECTION 46.** G.S. 74C-3(b) reads as rewritten:

24          "(b) "Private protective services" shall not mean:

25           ...

26           (14) An employee of a security department of a private business that  
27 conducts investigations exclusively on matters internal to the business  
28 affairs of the ~~business~~business; or

29           (15) Representatives of nonprofit organizations funded all or in part by  
30 business improvement districts who provide information and directions  
31 to local tourists and residents, engage in street cleaning and  
32 beautification services within the business improvement districts, and  
33 notify local law enforcement of any illegal activity observed by the  
34 representatives within the business improvement districts."

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

36          "(3) A public member appointed by the Governor shall not be a provider of  
37 health ~~services~~services or employed in the health services ~~field~~, or  
38 ~~hold a vested interest at any level in the provision of health services as~~  
39 ~~defined by the North Carolina Board of Ethics.~~ field. No public  
40 member appointed by the Governor or person in the public member's  
41 immediate family as defined by G.S. 90-405(8) shall be currently  
42 employed as a licensed nurse or been previously employed as a  
43 licensed nurse."





1 (a) An examiner who requests or requires an examinee to submit to a controlled  
2 substance examination shall comply with the procedural requirements set forth in this  
3 section.

4 (b) Collection of samples: the collection of samples for examination or screening  
5 shall be performed under reasonable and sanitary conditions. Individual dignity shall be  
6 preserved to the extent practicable. Samples shall be collected in a manner reasonably  
7 calculated to prevent substitution of samples and interference with the collection,  
8 examination, or screening of samples. Samples for prospective or current employees  
9 may be collected on-site or at an approved laboratory.

10 (c) ~~Approved laboratories: the examiner shall have the option of:~~

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

14 ~~(2) Having an approved laboratory perform both the screening and~~  
15 ~~confirmation tests as provided in this section.~~

16 Screening test of samples:

17 (1) Prospective employees: a preliminary screening procedure that utilizes  
18 a single-use test device may be used for prospective employees.

19 (2) Current employees: the screening test of samples for current  
20 employees shall only be performed by an approved laboratory.

21 (c1) Confirmation test of samples: if a preliminary screening procedure or other  
22 screening test produces a positive result, an approved laboratory shall confirm ~~any~~  
23 ~~sample that produces a positive that~~ result by a second examination of the sample  
24 utilizing gas chromatography with mass spectrometry or an equivalent scientifically  
25 accepted method.

26 ..."

27 **SECTION 52.(b)** This section constitutes a recent act of the General  
28 Assembly within the meaning of G.S. 150B-21.1(a). The Department of Labor shall  
29 adopt within 30 days of the effective date of this section temporary rules to clarify when  
30 employees who are subject to Article 20 of Chapter 95 of the General Statutes may  
31 utilize a preliminary screening procedure involving a single-use test device consistent  
32 with this section.

33 **SECTION 53.** G.S. 113A-57 is amended by adding a new subdivision to  
34 read:

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

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

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

39 (1) A comprehensive school health education program shall be developed  
40 and taught to pupils of the public schools of this State from  
41 kindergarten through ninth grade. This program includes  
42 age-appropriate instruction in the following subject areas, regardless of  
43 whether this instruction is described as, or incorporated into a  
44 description of, "family life education", "family health education",

1 "health education", "family living", "health", "healthful living  
2 curriculum", or "self-esteem":

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

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

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

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

1                   ~~Any instruction concerning the causes of sexually transmitted diseases,~~  
2                   ~~including Acquired Immune Deficiency Syndrome (AIDS), in cases~~  
3                   ~~where homosexual acts are a significant means of transmission, shall~~  
4                   ~~include the current legal status of those acts.~~

5           (4)   The State Board of Education shall evaluate abstinence until marriage  
6                   curricula and their learning materials and shall develop and maintain a  
7                   recommended list of one or more approved abstinence until marriage  
8                   curricula. The State Board may develop an abstinence until marriage  
9                   program to include on the recommended list. The State Board of  
10                  Education shall not select or develop a program for inclusion on the  
11                  recommended list that does not include the positive benefits of  
12                  abstinence until marriage and the risks of premarital sexual activity as  
13                  the primary focus. The State Board shall include on the recommended  
14                  list only programs that include, in appropriate grades and classes,  
15                  instruction that:

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

38           (5)   The State Board of Education shall make available to all local school  
39                   administrative units for review by the parents and legal guardians of  
40                   students enrolled at that unit any State-developed objectives for  
41                   instruction, any approved textbooks, the list of reviewed materials, and  
42                   any other State-developed or approved materials that pertain to or are  
43                   intended to impart information or promote discussion or understanding  
44                   in regard to the prevention of sexually transmitted diseases, including

1 ~~Acquired Immune Deficiency Syndrome (AIDS), HIV/AIDS~~, to the  
2 avoidance of out-of-wedlock pregnancy, or to the abstinence until  
3 marriage curriculum. The review period shall extend for at least 60  
4 days before use."

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

6 "(7) Each school year, before students may participate in any portion of (i)  
7 a program that pertains to or is intended to impart information or  
8 promote discussion or understanding in regard to the prevention of  
9 sexually transmitted diseases, including ~~Acquired Immune Deficiency~~  
10 ~~Syndrome (AIDS), HIV/AIDS~~, or to the avoidance of out-of-wedlock  
11 pregnancy, (ii) an abstinence until marriage program, or (iii) a  
12 comprehensive sex education program, whether developed by the State  
13 or by the local board of education, the parents and legal guardians of  
14 those students shall be given an opportunity to review the objectives  
15 and materials. Local boards of education shall adopt policies to  
16 provide opportunities either for parents and legal guardians to consent  
17 or for parents and legal guardians to withhold their consent to the  
18 students' participation in any or all of these programs.

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

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

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

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

35 "(c) The State Board of Education shall have entire control of certifying all  
36 applicants for supervisory and professional positions in all public elementary and high  
37 schools of North Carolina; and it shall prescribe the rules and regulations for the  
38 renewal and extension of all certificates, and shall determine and fix the salary for each  
39 grade and type of certificate which it authorizes. The State Board of Education shall  
40 require each applicant for an initial certificate or graduate ~~certificate, other than an~~  
41 ~~applicant who is qualified under Article 19A of this Chapter,~~ certificate to demonstrate  
42 the applicant's academic and professional preparation by achieving a prescribed  
43 minimum score at least equivalent to that required by the Board on November 30, 1972,  
44 on a standard examination appropriate and adequate for that purpose. If the Board shall

1 specify the National Teachers Examination for this purpose, the required minimum  
2 score shall not be lower than that which the Board required on November 30, 1972. ~~The~~  
3 ~~Board may not require an applicant who is qualified under Article 19A of this Chapter~~  
4 ~~to take an additional exam to demonstrate academic competence.~~ The Board shall not  
5 issue provisional certificates for principals."

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

9 **SECTION 57.(b)** G.S. 115C-375.2(g), as enacted by Section 1 of S.L.  
10 2005-22, reads as rewritten:

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

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

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

20 **SECTION 58.** G.S. 115C-391.1(d)(3), as enacted by Section 2 of S.L.  
21 2005-205, reads as rewritten:

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

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

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

- 37 (1) The person seeking the certificate is eligible for the certificate under  
38 G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).  
39 (2) The person seeking the certificate is eligible for the certificate under  
40 G.S. 20-11(n)(1) and G.S. 20-11(n1).

41 The rules shall define exemplary student behavior, define what constitutes the  
42 successful completion of a drug or alcohol treatment counseling program, and provide  
43 for an appeal to an appropriate educational entity by a person who is denied a driving  
44 eligibility certificate. The Division of Nonpublic Education also shall develop policies

1 as to when it is appropriate to notify the Division of Motor Vehicles that a person who  
2 is or was enrolled in a home school or in a nonpublic school that is not accredited by the  
3 State Board of Education no longer meets the requirements for a driving eligibility  
4 certificate."

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

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

7 "**§ 143-55. Requisitioning for supplies by agencies; must purchase through sources**  
8 **certified.**

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

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

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

22 (1) At all times:

23 a. The State Legislative Building;

24 a1. Repealed by Session Laws 1998-156, s. 1, effective September  
25 24, 1998.

26 a2. The areas between the outer walls of the State Legislative  
27 Building and the far curblineline of those sections of Jones,  
28 Wilmington, Salisbury, and Lane Streets that border the land on  
29 which it is situated;

30 b. The Legislative Office Building, which shall include the  
31 following areas:

32 1. The garden area and outer stairway;

33 2. The loading dock area bounded by the wall on the east  
34 abutting the ~~State Government~~ Halifax Street Mall, the  
35 southern edge of the southernmost exit lane on Salisbury  
36 Street for the parking deck, and the Salisbury Street  
37 sidewalk;

38 3. The area between its outer wall and the near curblineline of  
39 that section of Lane Street that borders the land on which  
40 it is situated; and

41 4. The area bounded by its western outer wall, the  
42 extension of a line along its northern outer wall to the  
43 middle of Salisbury Street, following the middle line of  
44 Salisbury Street to the nearest point of the intersection of

Lane and Salisbury Streets, and thence east to the near curbline of the Legislative Office Building at its southwestern corner;

c. Any State-owned parking lot which is leased to the General 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~~ beginning; and

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.

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

4 (c) In the event of a vacancy in the office of special counsel, counsel's incapacity,  
5 or a conflict of interest, counsel for indigents at hearings or rehearings may be assigned  
6 in accordance with rules adopted by the Office of Indigent Defense Services. No  
7 mileage or compensation for travel time is paid to a counsel appointed pursuant to this  
8 subsection. Counsel may also be so assigned when, in the opinion of the Director of the  
9 Office of Indigent Defense Services, the volume of cases warrants.

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

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

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

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

37 "**§ 122C-289. Duty of assigned counsel; discharge.**

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



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

3           **SECTION 62.** Effective January 1, 2006, G.S. 130A-209 reads as rewritten:  
4 **"§ 130A-209. Incidence reporting of cancer; charge for collection if failure to**  
5 **report.**

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

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

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

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

32           (2) "Health care provider" or "provider" means any person who is licensed  
33 or certified to practice a health profession or occupation under Chapter  
34 90 of the General Statutes and who diagnoses or treats ~~cancer~~cancer  
35 or benign brain or central nervous system tumors."

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

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

1 the effluent filter as a part of the septic tank system in accordance with the  
2 specifications provided by the manufacturer of the effluent filter. An effluent filter shall:

- 3 (1) Be made of materials that are capable of withstanding the corrosives to  
4 which septic tank systems are normally subject.
- 5 (2) Prevent solid material larger than one-sixteenth of an inch, as  
6 measured along the shortest axis of the material, from entering the  
7 drainfield.
- 8 (3) Be designed and constructed to allow for routine maintenance.
- 9 (4) Be designed and constructed so as not to require maintenance more  
10 frequently than once in any three-year period under normally  
11 anticipated use."

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

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

17 **SECTION 64.(b)** G.S. 131E-14.2(d), as amended by Section 1 of S.L.  
18 2005-70, reads as rewritten:

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

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

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

1 G.S. 132-1 do not lose their status as public records merely because they were presented  
2 or considered during proceedings of the committee. A member of the committee or a  
3 person who testifies before the committee may testify in a civil action but cannot be  
4 asked about the person's testimony before the committee or any opinions formed as a  
5 result of the committee hearings."

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

7 "**§ 135-40.13A. Liability of third person; right of subrogation; right of first**  
8 **recovery.**

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

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

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

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

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

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

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

28       **SECTION 67.** G.S. 143-3.3(g), as amended by Section 6.35 of S.L.  
29 2005-276, reads as rewritten:

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

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

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

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

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

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

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

20 (2) The President Pro Tempore of the Senate shall make the following  
21 appointments:

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

28 (3) The Speaker of the House of Representatives shall make the following  
29 appointments:

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

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

41 Except as provided for the initial members under subsection (c) of this section,  
42 members shall serve four-year terms beginning July 1. No member may serve more than  
43 two full consecutive terms. Members may continue to serve beyond their terms until  
44 their successors are duly appointed, but any holdover shall not affect the expiration date

1 of the succeeding term. Vacancies shall be filled by the designated appointing authority  
2 for the remainder of the unexpired term. A member may be removed from office for  
3 cause by the authority that appointed that member."

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

5 **"§ 143B-437.51. Definitions.**

6 The following definitions apply in this Part:

- 7 (1) Agreement. – A community economic development agreement under  
8 G.S. 143B-437.57.
- 9 (2) Base years period. – ~~The first 24 months following the date set by the~~  
10 ~~Committee for performance to begin under the agreement period of~~  
11 ~~time set by the Committee during which new employees are to be~~  
12 ~~hired for the positions on which the grant shall be based.~~
- 13 (3) Business. – A corporation, sole proprietorship, cooperative association,  
14 partnership, S corporation, limited liability company, nonprofit  
15 corporation, or other form of business organization, located either  
16 within or outside this State.
- 17 (4) Committee. – The Economic Investment Committee established  
18 pursuant to G.S. 143B-437.54.
- 19 (5) Eligible position. – A position created by a business and filled by a  
20 new ~~full-time~~ employee in this State during the ~~base years or in~~  
21 ~~subsequent years of a grant period.~~
- 22 (5a) Enterprise tier. – The classification assigned to an area pursuant to  
23 G.S. 105-129.3.
- 24 (6) Full-time employee. – A person who is employed for consideration for  
25 at least 35 hours a week, whose wages are subject to withholding  
26 under Article 4A of Chapter 105 of the General Statutes, and who is  
27 determined by the Committee to be employed in a permanent position  
28 according to criteria it develops in consultation with the Attorney  
29 General. The term does not include any person who works as an  
30 independent contractor or on a consulting basis for the business.
- 31 (7) New employee. – A full time employee who represents a net increase  
32 in the number of the business's employees statewide. The term  
33 includes an employee who previously filled an eligible position who is  
34 rehired or called back from a layoff that occurs during or following the  
35 base years to a vacant position previously held by that employee or to  
36 a new position established during or following the base years.
- 37 (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- 38 (9) Related member. – Defined in G.S. 105-130.7A.
- 39 (10) Withholdings. – The amount withheld by a business from the wages of  
40 employees in eligible positions under Article 4A of Chapter 105 of the  
41 General Statutes."

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

43 "(d) Measuring Employment. – For the purposes of subdivision (a)(1) of this  
44 section and G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the

1 Committee may designate that the increase or maintenance of employment is measured  
2 at the level of a division or another operating unit of a business, rather than at the  
3 business level, if both of the following conditions are met:

- 4 (1) The Committee makes an explicit finding that the designation is  
5 necessary to secure the project in this State.
- 6 (2) The ~~designation agreement~~ contains terms to ensure that the business  
7 does not create eligible positions by transferring or shifting to the  
8 project existing positions from another project of the business or a  
9 related member of the business."

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

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

- 13 (1) The name of the business, the proposed location of the project, and the  
14 type of activity in which the business will engage at the project site or  
15 sites.
- 16 (2) The names and addresses of the principals or management of the  
17 business, the nature of the business, and the form of business  
18 organization under which it is operated.
- 19 (3) The financial statements of the business prepared by a certified public  
20 accountant and any other financial information the Committee  
21 considers necessary.
- 22 (4) The number of eligible positions proposed to be created ~~during the~~  
23 ~~base years and thereafter for the project~~ and the salaries for these  
24 positions."

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

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

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

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

- 33 (1) A detailed description of the proposed project that will result in job  
34 creation and the number of new employees to be hired ~~in~~ during the  
35 ~~base years and later years period~~.
- 36 (2) The term of the grant and the criteria used to determine the first year  
37 for which the grant may be claimed.
- 38 (3) The number of eligible positions that are subjects of the grant and a  
39 description of those positions and the location of those positions.
- 40 (4) The amount of the grant based on a percentage of withholdings.
- 41 (5) A method for determining the number of new employees hired during  
42 a grant year.
- 43 (6) A method for the business to report annually to the Committee the  
44 number of eligible positions for which the grant is to be made.

- 1 (7) A requirement that the business report to the Committee annually the  
2 aggregate amount of withholdings during the grant year.
- 3 (8) A provision permitting an audit of the payroll records of the business  
4 by the Committee from time to time as the Committee considers  
5 necessary.
- 6 (9) A provision that requires the Committee to amend an agreement  
7 pursuant to G.S. 143B-437.59.
- 8 (10) A provision that requires the business to maintain operations at the  
9 project location or another location approved by the Committee for at  
10 least one hundred fifty percent (150%) of the term of the grant and a  
11 provision to permit the Committee to recapture all or part of the grant  
12 at its discretion if the business does not remain at the site for the  
13 required term.
- 14 (11) A provision that requires the business to maintain employment levels  
15 in this State at the level of the year immediately preceding the base  
16 years period."

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

18 "(a) No later than March 1 of each year, for the preceding grant year, every  
19 business that is awarded a grant under this Part shall submit to the Committee a report  
20 showing withholdings as a condition of its continuation in the grant program. In  
21 addition, during the base period, the business shall submit to the Committee an annual  
22 payroll report showing the eligible positions that ~~are~~ have been created during the base  
23 years and the new eligible positions created during each subsequent preceding calendar  
24 year and, subsequent to the base period, the business shall submit to the Committee an  
25 annual report showing the eligible positions that remain filled at the end of each year of  
26 the grant. Upon request of the Committee, the business shall also submit a copy of its  
27 State and federal tax returns. Payroll and tax information and State and federal tax  
28 returns of individual taxpayers submitted under this subsection is tax information  
29 subject to G.S. 105-259. Aggregated payroll or withholding tax information submitted  
30 or derived under this subsection is not tax information subject to G.S. 105-259. When  
31 making a submission under this section, the business must pay the Committee a fee of  
32 one thousand five hundred dollars (\$1,500). The fee is due at the time the submission is  
33 made. The Secretary of Commerce, the Secretary of Revenue, and the Director of the  
34 Office of State Budget and Management shall determine the allocation of the fee  
35 imposed by this section among their agencies. The proceeds of the fee are receipts of the  
36 agency to which they are credited."

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

38 "**§ 145-23. State birthplace of traditional pottery.**

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

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

43 "**§ 147-33.72F. Procurement procedures; cost savings.**



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

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

10 "**§ 147-33.97. Information technology procurement policy; reporting**  
11 **requirements.**

12 (a) Policy. – In order to further the policy of the State to encourage and promote  
13 the use of small, minority, physically handicapped, and women contractors in State  
14 purchasing of goods and services, all State agencies covered by this Part shall cooperate  
15 with the Office in efforts to encourage the use of small, minority, physically  
16 handicapped, and women contractors in achieving the purpose of this Part, which is to  
17 provide for the effective and economical acquisition, management, and disposition of  
18 information technology.

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

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

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

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

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

36 **SECTION 72.5.(a)** G.S. 153A-155(d) reads as rewritten:

37 "(d) Administration. – The taxing county shall administer a room occupancy tax it  
38 levies. A room occupancy tax is due and payable to the county finance officer in  
39 monthly installments on or before the ~~15<sup>th</sup>~~ 20<sup>th</sup> day of the month following the month in  
40 which the tax accrues. Every person, firm, corporation, or association liable for the tax  
41 shall, on or before the 20<sup>th</sup> day of each month, prepare and render a return on a form  
42 prescribed by the taxing county. The return shall state the total gross receipts derived in  
43 the preceding month from rentals upon which the tax is levied. A room occupancy tax

1 return filed with the county finance officer is not a public record and may not be  
2 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

3 **SECTION 72.5.(b)** If House Bill 105, 2005 General Assembly, becomes  
4 law, then G.S. 160A-215(d), as amended by that act, reads as rewritten:

5 "(d) Administration. – The taxing city shall administer a room occupancy tax it  
6 levies. A room occupancy tax is due and payable to the city finance officer in monthly  
7 installments on or before the ~~15<sup>th</sup>~~ 20<sup>th</sup> day of the month following the month in which  
8 the tax accrues. Every person, firm, corporation, or association liable for the tax shall,  
9 on or before the 20<sup>th</sup> day of each month, prepare and render a return on a form  
10 prescribed by the taxing city. The return shall state the total gross receipts derived in the  
11 preceding month from rentals upon which the tax is levied. A room occupancy tax  
12 return filed with the city finance officer is not a public record and may not be disclosed  
13 except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1."

14 **SECTION 72.5.(c)** If House Bill 105, 2005 General Assembly, becomes  
15 law, then the lead-in language for Section 55 of that act reads as rewritten:

16 "SECTION 55. If Senate Bill 622, 2005 Regular Session, becomes law, then  
17 G.S. 105-134.6(c)(9), as enacted by Section 39.1(f) of that act, reads as rewritten:"

18 **SECTION 72.5.(d)** G.S. 105-134.6(c)(9), as enacted by Section 39.1(f) of  
19 S.L. 2005-276, is recodified as G.S. 105-134.6(c)(10).

20 **SECTION 72.5.(e)** If House Bill 105, 2005 Regular Session, becomes law,  
21 then the lead-in language for Section 59.2(a) of that act reads as rewritten:

22 "**SECTION 59.2.(a)** G.S. ~~105-114.1(a4)~~105-114(a4) reads as rewritten:"

23 **SECTION 72.8.(a)** G.S. 159B-44(13) reads as rewritten:

24 "(13) To make and execute contracts ~~for a period not exceeding three years~~  
25 and other instruments necessary or convenient in the exercise of the  
26 powers and functions of the joint municipal assistance agency,  
27 including contracts with municipalities, joint agencies, persons, firms,  
28 corporations and others, provided, however, that such contracts shall  
29 not unreasonably preclude the municipality or joint agency from  
30 contracting with other parties in order to achieve economy, adequacy  
31 and reliability in the operation of their electric systems;"

32 **SECTION 72.8.(b)** This section expires October 1, 2007.

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

34 "**§ 160A-164.2. Criminal history record check of employees permitted.**

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

40 **SECTION 74.** G.S. 160A-270(c), as amended by Section 4 of S.L.  
41 2005-227, reads as rewritten:

42 "(c) The council may conduct auctions of real or personal property electronically  
43 by authorizing the establishment of an electronic auction procedure or by authorizing  
44 the use of existing private or public electronic auction services. Notice of an electronic

1 auction of property shall identify, in addition to the information required in subsections  
2 (a) and (b) of this section, the electronic address where information about the property  
3 to be sold can be found and the electronic address where electronic bids may be posted.  
4 Notice may be published in a newspaper having general circulation in the political  
5 subdivision or by electronic means, or both. A decision to publish notice solely by  
6 electronic means for a particular ~~eontract-auction~~ or for all ~~eontracts-auctions~~ under this  
7 subsection shall be approved by the governing board of the political subdivision. Except  
8 as provided in this subsection, all requirements of subsections (a) and (b) of this section  
9 apply to electronic auctions."

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

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

14 **"§ 163-132.1B. Participation in 2010 Census Redistricting Data Program of the**  
15 **United States Bureau of the Census.**

16 (a) Purpose. – The State of North Carolina shall participate in the 2010 Census  
17 Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States  
18 Bureau of the Census, so that the State will receive 2010 Census data by voting precinct  
19 and be able to revise districts at all levels without splitting precincts and in compliance  
20 with the United States and North Carolina Constitutions and the Voting Rights Act of  
21 1965, as amended.

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

25 **SECTION 76.(a)** G.S. 163-165.7(a) as enacted by Section 1 of S.L.  
26 2005-323 reads as rewritten:

27 "(a) Only voting systems that have been certified by the State Board of Elections  
28 in accordance with the procedures and subject to the standards set forth in this section  
29 and that have not been subsequently decertified shall be permitted for use in elections in  
30 this State. Those certified voting systems shall be valid in any election held in the State  
31 or in any county, municipality, or other electoral district in the State. Subject to all other  
32 applicable rules adopted by the State Board of Elections and, with respect to federal  
33 elections, subject to all applicable federal regulations governing voting systems, paper  
34 ballots marked by the voter and counted by hand shall be deemed a certified voting  
35 system. The State Board of Elections shall certify optical scan voting systems, optical  
36 scan with ballot markers voting systems, and direct record electronic voting systems if  
37 any of those systems meet all applicable requirements of federal and State law. The  
38 State Board may certify additional voting systems only if they meet the requirements of  
39 the request for proposal process set forth in this section and only if they generate either  
40 a paper ballot or a paper record by which voters may verify their votes before casting  
41 them and which provides a backup means of counting the vote that the voter casts.  
42 Those voting systems may include optical scan and direct record electronic (DRE)  
43 voting systems. In consultation with the Office of Information Technology Services, the  
44 State Board shall develop the requests for proposal subject to the provisions of this

1 Chapter and other applicable State laws. Among other requirements, the request for  
2 proposal shall require at least all of the following elements:

- 3 (1) That the vendor post a bond or letter of credit to cover damages  
4 resulting from defects in the voting system. Damages shall include,  
5 among other items, any costs of conducting a new election attributable  
6 to those defects.
- 7 (2) That the voting system comply with all federal requirements for voting  
8 systems.
- 9 (3) That the voting system must have the capacity to include in precinct  
10 returns the votes cast by voters outside of the voter's precinct as  
11 required by G.S. 163-132.5G.
- 12 (4) With respect to electronic voting systems, that the voting system  
13 generate a paper record of each individual vote cast, which paper  
14 record shall be maintained in a secure fashion and shall serve as a  
15 backup record for purposes of any hand-to-eye count, hand-to-eye  
16 recount, or other audit. Electronic systems that employ optical scan  
17 technology to count paper ballots shall be deemed to satisfy this  
18 requirement.
- 19 (5) With respect to DRE voting systems, that the paper record generated  
20 by the system be viewable by the voter before the vote is cast  
21 electronically, and that the system permit the voter to correct any  
22 discrepancy between the electronic vote and the paper record before  
23 the vote is cast.
- 24 (6) With respect to all voting systems using electronic means, that the  
25 vendor provide access to all of any information required to be placed  
26 in escrow by a vendor pursuant to G.S. 163-165.9A for review and  
27 examination by the State Board of Elections; the Office of Information  
28 Technology Services; the State chairs of each political party  
29 recognized under G.S. 163-96; the purchasing county; and designees  
30 as provided in subdivision (9) of subsection (d) of this section.
- 31 (7) That the vendor must quote a statewide uniform price for each unit of  
32 the equipment.
- 33 (8) That the vendor must separately agree with the purchasing county that  
34 if it is granted a contract to provide software for an electronic voting  
35 system but fails to debug, modify, repair, or update the software as  
36 agreed or in the event of the vendor having bankruptcy filed for or  
37 against it, the source code described in G.S. 163-165.9A(a) shall be  
38 turned over to the purchasing county by the escrow agent chosen under  
39 G.S. 163-165.9A(a)(1) for the purposes of continuing use of the  
40 software for the period of the contract and for permitting access to the  
41 persons described in subdivision (6) of this subsection for the purpose  
42 of reviewing the source code.

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

4 ~~No~~ ~~If a voting system was acquired or upgraded by a county before August 1, 2005,~~  
5 ~~shall be used in an election during or after 2006 unless the county shall not be required~~  
6 ~~to go through the purchasing process described in this subsection if the county can~~  
7 ~~demonstrate to the State Board of Elections compliance with the requirements in~~  
8 ~~subdivisions (1) through (6) and subdivision (8) of this subsection, where those~~  
9 ~~requirements are applicable to the type of voting system involved. If the county cannot~~  
10 ~~demonstrate to the State Board of Elections that the voting system is in compliance with~~  
11 ~~those subdivisions, the county board shall not use the system in an election during or~~  
12 ~~after 2006, and the county shall be subject to the purchasing requirements of this~~  
13 ~~subsection."~~

14 **SECTION 76.(b)** G.S. 163-182.1(b)(1), as enacted by Section 5 of S.L.  
15 2005-323, reads as rewritten:

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

35 **SECTION 76.(c)** G.S. 163-182.2(b)(1a), as enacted by Section 5 of S.L.  
36 2005-323, reads as rewritten:

37 "(1a) For optical scan and direct record electronic voting systems, and for  
38 any other voting systems in which ballots are counted other than on  
39 paper by hand and eye, those rules shall provide for a sample  
40 hand-to-eye count of the paper ballots or paper records of a sampling  
41 of a statewide ballot item in every county. The presidential ballot item  
42 shall be the subject of the sampling in a presidential election. If there is  
43 no statewide ballot item, the State Board shall provide a process for  
44 selecting district or local ballot items to adequately sample the

1           electorate. The sample chosen by the State Board shall be of one or  
2           more full precincts, full counts of mailed absentee ballots, and full  
3           counts of one or more one-stop early voting sites. The size of the  
4           sample of each category shall be chosen to produce a statistically  
5           significant result and shall be chosen after consultation with a  
6           statistician. The actual units shall be chosen at random. In the event of  
7           a material discrepancy between the electronic or mechanical count and  
8           a hand-to-eye count, the hand-to-eye count shall control, except where  
9           paper ballots or records have been lost or destroyed or where there is  
10          another reasonable basis to conclude that the hand-to-eye count is not  
11          the true count. If the discrepancy between the hand-to-eye count and  
12          the mechanical or electronic count is significant, a complete  
13          hand-to-eye count shall be conducted. The sample count need not be  
14          done on election night."

15           **SECTION 76.(d)** Section 2(b) of S.L. 2005-323 reads as rewritten:

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

20           **SECTION 76.(e)** Section 7 of S.L. 2005-323 is repealed.

21           **SECTION 76.8.** If Senate Bill 606, 2005 Regular Session, becomes law,  
22          then the catchline to G.S. 158-33, as amended by Section 1 of that act, reads as  
23          rewritten:

24          **"§ 158-33. Creation of ~~Global TransPark Development Zone.~~North Carolina's**  
25          **Eastern Region."**

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

30           "Sec. 1. The term of the School Board shall be for four years and the governing body  
31          of the City of Asheville shall, during the month of March 2007 and quadrennially  
32          thereafter, appoint or elect two persons to the Board for four-year terms or until their  
33          successors are elected and qualified, and, during the month March 2009 and  
34          quadrennially thereafter, appoint or elect three persons to the Board for four-year terms  
35          or until their successors are elected and qualified. All Board members shall be residents  
36          of the Asheville City School District and shall be persons known to be in favor of public  
37          education and interested in the welfare of the schools and shall be appointed or elected  
38          with the sole object in view of maintaining the efficiency of the schools of said district  
39          and without any partisan prejudice or bias. If any vacancy in the membership of said  
40          board occurs by reasons of death or resignation or otherwise, the governing body of the  
41          City of Asheville shall fill the same appointment or election. Terms shall begin on April  
42          1 and in April 2007, and each biennial year thereafter, the Board shall meet and elect a  
43          chairman, who will preside over the meetings of the Board. A majority of the members

1 of the Board shall constitute a quorum and the chairman or two members may call a  
2 meeting.

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

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

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

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

14 "Section 1.3. In the alternative to Section 1.2 above, during any fiscal year in which  
15 the anticipated revenues by the Burke County Board of Commissioners for  
16 appropriation under Section 1(2) of the Act exceed the amount of seven million dollars  
17 (\$7,000,000), the Burke County Board of Commissioners may appropriate an amount  
18 equal to fifty percent (50%) of the revenues designated for school capital expenditures  
19 and debt under Article 42 of Chapter 105 of the North Carolina General Statutes from  
20 the anticipated revenues appropriated under Section 1(2) of the Act to (1) the Burke  
21 County Board of Commissioners' general fund, (2) the local current expense fund of the  
22 Burke County Board of Education as part of its appropriation to that fund, or (3) both  
23 funds.

24 "Section 1.4. In the event that the Burke County Board of Education receives  
25 additional capital outlay revenues from a fund or source other than those in existence on  
26 or before August 3, 2005 ("the Additional Capital Revenue"), then, to the extent  
27 permitted by applicable law, the Board of Commissioners may appropriate up to fifty  
28 percent (50%) of the value of the Additional Capital Revenue appropriated for use to or  
29 used by the Board of Education in any fiscal year from the revenues appropriated under  
30 Section 1(2) of the Act to (1) the Burke County Board of Commissioners' general fund,  
31 (2) the local current expense fund of the Board of Education as part of its appropriation  
32 to that fund, or (3) both funds. In no event shall the amount of this appropriation exceed  
33 the anticipated revenues appropriated under Section 1(2) of the Act."

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

35 **SECTION 80.** Section 11.69(b2)(3) of S.L. 1997-443, as enacted by Section  
36 3 of S.L. 2001-234, reads as rewritten:

37 "(b2) Notwithstanding the provisions of subsection (b1) of this section, any person  
38 who obtained an exemption under subsection (b) of this section for the construction of a  
39 new building that is not connected to any other existing structure by more than a  
40 protected walkway, and who obligated one or more Qualifying Financial Commitments  
41 for the construction of the building of a value totaling at least twenty-five thousand  
42 dollars (\$25,000), before January 1, 2001, may proceed to develop the beds and obtain a  
43 license for the operation of the beds if all of the following conditions are met.

1 Exemptions that were received for increases in bed capacity of existing buildings must  
2 meet the requirements set forth in subsection (b1) of this section.

3 ...

4 (3) ~~Not later than the close of business on December 1, 2005, the person~~  
5 ~~granted the exemption shall submit to the Department of Health and~~  
6 ~~Human Services a copy of the certificate of occupancy from the~~  
7 ~~building inspector for the facility for which the exemption was~~  
8 ~~granted.~~ Not later than the close of business on June 30, 2006, the  
9 person granted the exemption who has met the requirements set forth  
10 in subdivisions (1) and (2) of this subsection shall submit to the  
11 Department of Health and Human Services a copy of the certificate of  
12 occupancy from the building inspector for the facility for which the  
13 exemption was granted."

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

15 "**SECTION 4.** This act is ~~effective when it becomes law.~~becomes effective July 1,  
16 2005."

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

18 **SECTION 82.** The introductory language of Section 5 of S.L. 2005-123 is  
19 rewritten to read:

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

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

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

25 "**SECTION 10.40D.(e)** The Department of Health and Human Services, the  
26 Department of Public Instruction, and representatives of local school administrative  
27 units shall examine the policies regarding the administration of medications in school  
28 and make recommendations regarding the use of medication aides in the public schools.  
29 The Secretary of Health and Human Services and the Chair of the Board of Education  
30 shall convene a task force consisting of representatives of the agencies listed above and  
31 other interested parties. The Task Force shall develop recommendations for the  
32 Secretary and the Chair by April 1, 2006."

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

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

35 "**SECTION 10.11.(t)** For the purposes of determining eligibility for Medical  
36 Assistance, the Department of Health and Human Services may apply federal transfer of  
37 assets policies, as described in Title XIX, section 1917(c) of the Social Security Act,  
38 including the attachment of liens, to (i) life estates purchased by or on behalf of the  
39 recipient, ~~other than life estates excluded from countable resources under this section,~~  
40 and (ii) to real property excluded as "income producing", tenancy-in-common, or as  
41 nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of  
42 the Social Security Act. The transfer of assets policy shall apply only to an  
43 institutionalized individual or the individual's spouse as defined in Title XIX, section  
44 1917(c) of the Social Security Act. The Department shall exclude from countable



1 resources ~~any only a life estate in real property that is in the recipient's home, meets the~~  
2 definition of homesite and is measured by the recipient's life, and is the result of the  
3 transfer of a remainder interest.

4 Federal transfer of assets policies applied to "income producing" real property under  
5 Title XIX, section 1902(r)(2) of the Social Security Act shall become effective not  
6 earlier than October 1, 2001. Federal transfer of assets policies and attachment of liens  
7 applied to real property excluded as tenancy-in-common, or as nonhomesite property  
8 made "income producing" in accordance with this subsection shall become effective not  
9 earlier than November 1, 2002. Federal transfer of assets policies applied to life estates  
10 in accordance with this subsection shall become effective not earlier than October 1,  
11 2005."

12 **SECTION 88.(b)** This section applies to life estates created on or after  
13 October 1, 2005.

14 **SECTION 88.5.** Section 10.11(a)(23) of S.L. 2005-276 reads as rewritten:

15 "(23) Medically necessary prosthetics or orthotics. – Reimbursement in  
16 accordance with the State Plan approved by the Department of Health  
17 and Human Services, except that in order to be eligible for  
18 reimbursement, providers must be Board ~~certified~~ certified, or in the  
19 case of ocular prosthetists Board certified or accredited, not later than  
20 July 1, 2005. Medically necessary prosthetics and orthotics are subject  
21 to prior approval and utilization review."

22 **SECTION 89.(a)** G.S. 143B-267, as amended by Section 17.25(a) of S.L.  
23 2005-276, reads as rewritten:

24 "**§ 143B-267. Post-Release Supervision and Parole Commission – members;**  
25 **selection; removal; chairman; compensation; quorum; services.**

26 Effective ~~August 1, 2005~~, September 1, 2005, the Post-Release Supervision and  
27 Parole Commission shall consist of one full-time member and two half-time members.  
28 The three members shall be appointed by the Governor from persons whose recognized  
29 ability, training, experience, and character qualify them for service on the Commission.  
30 The terms of office of any members serving on the Commission on ~~June 30,~~  
31 ~~2005~~, August 31, 2005, shall expire on that date. The terms of office of persons  
32 appointed by the Governor as members of the Commission shall be for four years or  
33 until their successors are appointed and qualify. Any appointment to fill a vacancy on  
34 the Commission created by the resignation, removal, death or disability of a member  
35 shall be for the balance of the unexpired term only.

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

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

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

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

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

9 "**SECTION 17.25.(b)** This section becomes effective ~~June 30, 2005.~~September 1,  
10 2005."

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

12 "**SECTION 17.30.** The Department of Correction ~~may~~shall adjust the current  
13 contract for 100 female residential substance abuse treatment beds to guarantee a one  
14 hundred percent (100%) occupancy rate. The Department may use available funds for  
15 this contract adjustment if necessary. Any contract adjustments shall be effective as  
16 soon as practical but no later than October 1, 2005, and shall extend only through June  
17 30, 2006."

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

19 "**DEPARTMENT OF TRANSPORTATION PERFORMANCE-BASED**  
20 **CONTRACTS**

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

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

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

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

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

37 '**SECTION 10.5.** Section 10.3 of this act is effective for taxable years beginning on  
38 or after January 1, 2005.'"

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

41 "**§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

42 The North Carolina State Lottery Commission, established by Chapter 18C of the  
43 General Statutes, must deduct and withhold State income taxes from the payment of  
44 winnings ~~that are reportable to the Internal Revenue Service under section 3406 of the~~

1 ~~Code~~ in an amount of six hundred dollars (\$600.00) or more. The amount of taxes to be  
2 withheld is seven percent (7%) of the winnings. The Commission must file a ~~return~~  
3 ~~and return~~, pay the withheld ~~taxes~~ taxes, and report the amount withheld in the time and  
4 manner required under G.S. 105-163.6 as if the winnings were wages. The taxes the  
5 Commission withholds are held in trust for the Secretary."

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

8 "**§ 114-19.16. Criminal record checks for the North Carolina State Lottery**  
9 **Commission and its Director.**

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

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

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

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

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

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

40 **SECTION 91.6.** S.L. 2005-276 is amended by adding the following new  
41 section to read:

42 "**SECTION 19A.4.** Funds appropriated in this act to the Department of Cultural  
43 Resources for the 2005-2006 fiscal year for the Edenton Signers Memorial may be used  
44 to establish the Memorial on the grounds of the Chowan County Courthouse or

1 Courthouse Green to honor Hugh Williamson, a signer of the United States  
2 Constitution."

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

5 "**§ 97-18. Prompt payment of compensation required; installments; payment**  
6 **without prejudice; notice to Commission; penalties.**

7 ...

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

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

1 in which event the employer or insurer may terminate or suspend compensation subject  
2 to the provisions of G.S. 97-18.1.

3 ...."

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

6 "**§ 97-25.6. Reasonable access to medical information.**

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

15 Any medical records or reports, restricted to conditions related to the injury or  
16 illness for which the employee is seeking compensation, in the possession of the  
17 employee shall be furnished by the employee to the employer when requested in writing  
18 by the employer.

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

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

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

1        A health care provider may charge reasonable fees in accordance with G.S. 97-26.1  
2 for services caused by this section subject to the approval of the Commission. The  
3 Commission may adopt rules requiring payment of such fees.

4        In addition, a health care provider treating an employee claiming compensation  
5 under this Act may communicate to the employer or insurer/carrier information  
6 regarding the injured worker's work status with the written authorization of the  
7 employee."

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

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

11        **SECTION 93.(a)** If House Bill 320, 2005 Regular Session, becomes law,  
12 then G.S. 7A-133(b), as amended by Section 27.(b) of that act, reads as rewritten:

13        "(b) For district court districts of less than a whole county, or with part or all of  
14 one county with part of another, the composition of the district is as follows:

- 15        (1) District Court District 9 consists of Franklin and Granville Counties  
16        and the remainder of Vance County not in District Court District 9B.
- 17        (2) District Court District 9B consists of Warren County and East  
18        Henderson I, North Henderson I, North Henderson II, Middleburg,  
19        Townsville, and Williamsboro Precincts of Vance County.
- 20        (3) District Court District ~~20B~~ 20C consists of the remainder of Union  
21        County not in District Court District ~~20C~~. 20B.
- 22        (4) District Court District ~~20C~~ 20B consists of Precinct 01: Tract 204.01:  
23        Block Group 2: Block 2040, Block 2057, Block 2058, Block 2060,  
24        Block 2061, Block 2062, Block 2064, Block 2065; Tract 204.02:  
25        Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004,  
26        Block 2005, Block 2006, Block 2007, Block 2008, Block 2009,  
27        Block 2010, Block 2011, Block 2012, Block 2013, Block 2014,  
28        Block 2015, Block 2016, Block 2017, Block 2018, Block 2023,  
29        Block 2024, Block 2025, Block 2026, Block 2027, Block 2028,  
30        Block 2029, Block 2030, Block 2031, Block 2032, Block 2033,  
31        Block 2034; Block Group 3: Block 3000, Block 3003, Block 3004,  
32        Block 3005, Block 3006, Block 3007, Block 3008, Block 3009,  
33        Block 3010, Block 3011, Block 3012, Block 3013, Block 3014,  
34        Block 3015, Block 3016, Block 3017, Block 3018, Block 3019,  
35        Block 3020, Block 3021, Block 3022, Block 3023, Block 3024,  
36        Block 3025, Block 3026, Block 3027, Block 3028, Block 3029,  
37        Block 3030, Block 3031, Block 3032, Block 3033, Block 3034,  
38        Block 3035, Block 3036, Block 3037, Block 3038, Block 3039,  
39        Block 3040, Block 3041, Block 3042, Block 3043, Block 3044,  
40        Block 3045, Block 3046, Block 3047; Block Group 4: Block 4035,  
41        Block 4054, Block 4055; Precinct 02: Tract 205: Block Group 1:  
42        Block 1000, Block 1001, Block 1002, Block 1003, Block 1004,  
43        Block 1005, Block 1006, Block 1007, Block 1009, Block 1010,  
44        Block 1011, Block 1012, Block 1013, Block 1014, Block 1015,

1 Block 1016, Block 1017, Block 1018, Block 1019, Block 1020,  
2 Block 1021, Block 1022, Block 1023, Block 1037, Block 1038;  
3 Block Group 2: Block 2081, Block 2082, Block 2092, Block 2099,  
4 Block 2100, Block 2101, Block 2102; Tract 206: Block Group 3:  
5 Block 3036, Block 3038, Block 3039, Block 3040, Block 3048;  
6 Block Group 4: Block 4053; Precinct 03, Precinct 04, Precinct 06:  
7 Tract 202.02: Block Group 1: Block 1012, Block 1013, Block 1014,  
8 Block 1015, Block 1017, Block 1018, Block 1021, Block 1022,  
9 Block 1023; Tract 204.01: Block Group 2: Block 2000, Block 2001,  
10 Block 2002, Block 2003, Block 2004, Block 2005, Block 2033,  
11 Block 2034, Block 2035, Block 2036, Block 2041, Block 2042,  
12 Block 2043, Block 2044, Block 2045, Block 2056, Block 2063,  
13 Block 2999; Precinct 08, Precinct 09, Precinct 10, Precinct 13,  
14 Precinct 23: Tract 206: Block Group 4: Block 4051; Precinct 25:  
15 Tract 206: Block Group 4: Block 4036; Precinct 34, Precinct 36,  
16 Precinct 43 of Union County.

17 Precinct boundaries as used in this section for Vance County are those shown on  
18 maps on file with the Legislative Services Office on May 1, 1991, for Union County,  
19 are those shown on the Legislative Services Office's redistricting computer database on  
20 January 1, 2005; and for other counties are those reported by the United States Bureau  
21 of the Census under Public Law 94-171 for the 1990 Census in the IVTD Version of the  
22 TIGER files."

23 **SECTION 93.(b)** This section becomes effective December 1, 2005, or the  
24 date upon which Section 14.2(f) of S.L. 2005-276 is approved under section 5 of the  
25 Voting Rights Act of 1965, whichever is later.

26 **SECTION 94.(a)** If House Bill 328, 2005 Regular Session, becomes law,  
27 then Section 5 of that act is repealed.

28 **SECTION 94.(b)** The Town of Matthews may adopt ordinances, only after  
29 holding public hearings, to regulate the removal of trees from public and private  
30 property within the town in order to preserve, protect, and enhance one of the most  
31 valuable natural resources of the community and to protect the health, safety, and  
32 welfare of its citizens.

33 **SECTION 95.** G.S. 18B-101(9), as amended by Section 1 of S.L. 2005-277,  
34 reads as rewritten:

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

42 **SECTION 95.5.** S.L. 2005-307 is amended by adding the following new  
43 section to read:

1 "SECTION 6.1. This act shall be submitted by the county attorney under section 5  
2 of the Voting Rights Act of 1965."

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

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

8 SECTION 96.5. If House Bill 706, 2005 Regular Session, becomes law,  
9 then Section 1 of S.L. 2005-198 is repealed.

10 SECTION 96.8. If House Bill 1085, 2005 Regular Session, becomes law,  
11 then G.S. 19A-70(a) as enacted by that act, reads as rewritten:

12 "(a) In every arrest under G.S. 14-362.2, if an animal shelter takes custody of dogs  
13 illegally used for fighting, the operator of the animal shelter may file a petition with the  
14 court requesting that the defendant be ordered to deposit funds in an amount sufficient  
15 to secure payment of all the reasonable expenses expected to be incurred by the animal  
16 shelter in caring for and providing for the dogs pending the disposition of the charges.  
17 For purposes of this section, 'reasonable expenses' includes the cost of providing food,  
18 water, shelter, and care, including medical care, for at least 30 days."

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

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

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

26 SECTION 98.1. If House Bill 1404 becomes law, then G.S. 20-45(c), as  
27 enacted by that act, reads as rewritten:

28 "(c) Any sworn law enforcement officer with ~~jurisdiction~~ jurisdiction, including a  
29 member of the State Highway Patrol, is authorized to seize the certificate of title,  
30 registration card, permit, license, or registration plate, if the officer has electronic or  
31 other notification from the Division that the item has been revoked or cancelled, or  
32 otherwise has probable cause to believe that the item has been revoked or cancelled  
33 under any law or statute, including G.S. 20-309(e). If a criminal proceeding relating to  
34 the item is pending, the law enforcement officer in possession of that item shall retain  
35 the item pending the entry of a final judgment by a court with jurisdiction. If there is no  
36 criminal proceeding pending, the law enforcement officer shall deliver the item to the  
37 Division."

38 SECTION 98.3.(a) If House Bill 1429, 2005 Regular Session, becomes law,  
39 then under Part 2H of Article 10 of Chapter 143B of the General Statutes as recodified  
40 and rewritten by Section 4(a) of that act, the name of the North Carolina Grape Growers  
41 Council is changed to the North Carolina Wine and Grape Growers Council. The  
42 Revisor of Statutes is authorized to substitute the term 'Wine and Grape Growers  
43 Council' for the term 'Grape Growers Council' wherever that term appears in that Part.



1           **SECTION 98.3.(b)** If House Bill 1429, 2005 Regular Session, becomes law,  
2 G.S. 105-113.81A, as amended by Section 4(c) of that act, reads as rewritten:

3 "**§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**  
4 **wine.**

5       The Secretary shall on a quarterly basis credit to the Department of Commerce the  
6 net proceeds of the excise tax collected on unfortified wine bottled in North Carolina  
7 during the previous quarter and the net proceeds of the excise tax collected on fortified  
8 wine bottled in North Carolina during the previous quarter, except that the amount  
9 credited to the Department of Commerce under this section shall not exceed five  
10 hundred thousand dollars (\$500,000) per fiscal year. The Department of Commerce  
11 shall allocate the funds received under this section to the North Carolina Wine and  
12 Grape Growers Council to be used to promote the North Carolina grape and wine  
13 industry and to contract for research and development services to improve viticultural  
14 and enological practices in North Carolina. Any funds credited to the Department of  
15 Commerce under this section that are not expended by June 30 of any fiscal year may  
16 not revert to the General Fund, but shall remain available to the Department for the uses  
17 set forth in this section."

18           **SECTION 98.5.(a)** If House Bill 1465 becomes law, then  
19 G.S. 130A-309.10, as amended by that act, is amended by adding a new subsection to  
20 read:

21       "(l) Oyster shells that are delivered to a landfill shall be stored at the landfill for at  
22 least 90 days or until they are removed for recycling. If oyster shells that are stored at a  
23 landfill are not removed for recycling within 90 days of delivery to the landfill, then,  
24 notwithstanding subdivision (12) of subsection (f) of this section, the oyster shells may  
25 be disposed of in the landfill."

26           **SECTION 98.5.(b)** G.S. 130A-309.10(l), as enacted by subsection (a) of this  
27 section, becomes effective 1 January 2007.

28           **SECTION 98.5.(c)** If House Bill 1465 becomes law, then Section 4 of  
29 House Bill 1465 is rewritten to read:

30       "**SECTION 4.** Sections 1, 2, and 3 of this act become effective 1 October 2009  
31 except that G.S. 130A-309.10(f)(12), as enacted by Section 2 of this act, becomes  
32 effective 1 January 2007. Section 4 of this act becomes effective 1 January 2007."

33           **SECTION 99.** G.S. 14-112.2(c), as enacted by Section 2 of S.L. 2005-272,  
34 reads as rewritten:

35       "(c) It is unlawful for a person, who knows or reasonably should know that an  
36 elder adult or disabled adult lacks the capacity to consent, to obtain or use, endeavor to  
37 obtain or use, or conspire with another to obtain or use an elder adult's or disabled  
38 adult's funds, assets, or property with the intent to temporarily or permanently deprive  
39 the elder adult or disabled adult of the use, benefit, or possession of the funds, assets, or  
40 property, or benefit someone other than the elder adult or disabled adult. This  
41 subsection shall not apply to a person acting within the scope of ~~their~~ that person's  
42 lawful authority as the agent for the elder adult or disabled adult."

43           **SECTION 99.3.** If Senate Bill 518 becomes law, then Section 3(a) of that  
44 act, reads as rewritten:

1 "SECTION 3.(a) G.S. 160A-373 reads as rewritten:

2 "§ 160A-373. Ordinance to contain procedure for plat approval; approval  
3 prerequisite to plat recordation; statement by owner.

4 Any subdivision ordinance adopted pursuant to this Part shall contain provisions  
5 setting forth the procedures to be followed in granting or denying approval of a  
6 subdivision plat prior to its registration.

7 The ordinance may provide that final approval of each individual subdivision plat is  
8 to be given by decisions on preliminary plats and final plats are to be made by:

9 (1) The city council,

10 (2) The city council on recommendation of a planning agency, designated  
11 body, or

12 (3) A designated planning agency board, technical review committee, or  
13 other designated body or staff person.

14 From and after the effective date of a subdivision ordinance that is adopted by the  
15 city, no subdivision plat of land within the city's jurisdiction shall be filed or recorded  
16 until it shall have been submitted to and approved by the council or appropriate agency,  
17 as specified in the subdivision ordinance, and until this approval shall have been entered  
18 on the face of the plat in writing by an authorized representative of the city. The Review  
19 Officer, pursuant to G.S. 47-30.2, shall not certify a plat of a subdivision of land located  
20 within the territorial jurisdiction of a city that has not been approved in accordance with  
21 these provisions, nor shall the clerk of superior court order or direct the recording of a  
22 plat if the recording would be in conflict with this section."

23 **SECTION 99.4.(a)** If Senate Bill 612, 2005 Regular Session, becomes law,  
24 then G.S. 120-47.7B, as enacted in Section 1 of that act, is amended by adding a new  
25 subsection to read:

26 "(d) Any person, when in doubt about the applicability and interpretation of this  
27 Article in a particular context, may submit in writing the facts of the situation to the  
28 Secretary of State with a request for a written opinion to establish the standard of duty  
29 regarding compliance with this Article. Any such opinion so issued shall specifically  
30 refer to this subsection. No person shall be subject to prosecution or civil action for  
31 failure to comply with this Article if the person has relied upon and complied with a  
32 written opinion issued by the Secretary of State under this subsection."

33 **SECTION 99.4.(b)** If Senate Bill 612, 2005 Regular Session, becomes law,  
34 then G.S. 147-54.36(a) as enacted in Section 2 of that act reads as rewritten:

35 "~~(a) For purposes of G.S. 147-54.37 and G.S. 147-54.38, the following~~  
36 ~~expenditures need not be reported:~~

37 (a) For purposes of G.S. 147-54.37 and G.S. 147-54.38, the following  
38 expenditures need not be reported:"

39 **SECTION 99.4.(c)** If Senate Bill 612, 2005 Regular Session, becomes law,  
40 then G.S. 147-54.39, as enacted in Section 2 of that act, is amended by adding a new  
41 subsection to read:

42 "(d) Any person, when in doubt about the applicability and interpretation of this  
43 Article in a particular context, may submit in writing the facts of the situation to the  
44 Secretary of State with a request for a written opinion to establish the standard of duty

1 regarding compliance with this Article. Any such opinion so issued shall specifically  
2 refer to this subsection. No person shall be subject to prosecution or civil action for  
3 failure to comply with this Article if the person has relied upon and complied with a  
4 written opinion issued by the Secretary of State under this subsection."

5 **SECTION 99.4.(d)** If Senate Bill 612, 2005 Regular Session, becomes law,  
6 then G.S. 147-54.41(d) as enacted in Section 2 of that act, reads as rewritten:

7 "(d) If the person granting the scholarship in subsection (c) of this section is  
8 outside North Carolina, the ~~covered person or legislative employee~~ executive branch  
9 officer accepting the scholarship shall be responsible for filing the report."

10 **SECTION 99.4.(e)** If Senate Bill 612, 2005 Regular Session, becomes law,  
11 then G.S. 147-54.41(e)(2) as enacted in Section 2 of that act, reads as rewritten:

12 "(e) This section shall not apply to any of the following:

13 ...

14 (2) Any gift from a family member to a ~~covered person or legislative~~  
15 ~~employee~~ an executive branch officer."

16 **SECTION 99.4.(f)** This section becomes effective January 1, 2007.

17 **SECTION 99.5.(a)** If Senate Bill 629 becomes law, then subsection (a) of  
18 Section 3 of that act is rewritten to read:

19 "(a) A manufacturing redevelopment district may be established on any parcel or  
20 tract of land or on any combination of contiguous parcels or tracts of land as provided in  
21 this section. To establish a manufacturing redevelopment district, the new operator of  
22 the manufacturing facilities located within the boundaries of the district shall certify to  
23 the Secretary of State that the district meets all of the criteria set out in this section. The  
24 certification shall describe the boundaries of the district by metes and bounds and shall  
25 set out the specific financial mechanism that guarantees completion of the assessment  
26 and remediation program as required under subdivision (8) of subsection (b) of this  
27 section. The district shall be considered to be established as a manufacturing  
28 redevelopment district on the date the Secretary of State approves the certification. The  
29 Secretary of State shall approve the certification if the new operator provides sufficient  
30 documentation that the new operator has met each of the criteria set out in subsection  
31 (b) of this section. Once established, a manufacturing redevelopment district shall  
32 continue to exist until title to the real property comprising the district is transferred to  
33 the State as provided in Section 7 of this act."

34 **SECTION 99.5.(b)** If Senate Bill 629 becomes law, then sub-subdivision b.  
35 of subdivision (7) of subsection (b) of that act is rewritten to read:

36 "b. Accepted responsibility for assessment and remediation of  
37 known and unknown environmental conditions on the property  
38 that comprises the manufacturing redevelopment district to  
39 standards approved by the Department of Environment and  
40 Natural Resources in accordance with this act and other  
41 applicable environmental laws, regulations, and rules."

42 **SECTION 99.5.(c)** If Senate Bill 629 becomes law, then subdivision (8) of  
43 subsection (b) of Section 3 of that act is rewritten to read:

1           "(8) The new operator provides financial assurance, acceptable to the  
2           Department of Environment and Natural Resources, for the fulfillment  
3           of the requirements set out in sub-subdivisions b. and c. of subdivision  
4           (7) of subsection (b) of this section. The financial assurance shall  
5           include a prefunded escrow account or other financing mechanism, in  
6           an amount not less than five million dollars (\$5,000,000), that runs in  
7           favor of the State in the event of a default. The establishment of the  
8           prefunded account shall not relieve the new operator of its obligation  
9           to comply with applicable federal and State laws, regulations, and  
10          rules, and shall not be construed to alter the authority of the  
11          Department of Environment and Natural Resources to enforce the  
12          requirements of applicable federal and State laws, regulations, and  
13          rules. The Department of Environment and Natural Resources shall: (i)  
14          review the financial assurance contemplated by this act in light of  
15          reasonably available financial assurance and guaranteed remediation  
16          products and in light of known and reasonably anticipated unknown  
17          environmental conditions at the manufacturing redevelopment district,  
18          and (ii) approve or disapprove the financial assurance within 45 days  
19          after the new operator submits a complete financial assurance  
20          proposal, including copies of the proposed financial assurance  
21          instrument or mechanism, to the Department of Environment and  
22          Natural Resources. The requirement that the financial assurance is  
23          acceptable to the Department of Environment and Natural Resources  
24          shall be waived if the Department of Environment and Natural  
25          Resources does not complete its review within the 45-day period. The  
26          45-day review period may be extended if the new operator and the  
27          Department of Environment and Natural Resources mutually agree to  
28          the extension."

29           **SECTION 99.5.(d)** If Senate Bill 629 becomes law, then subsection (a) of  
30          Section 4 of that act is rewritten to read:

31           "(a) No person who owned or had an interest in any real property within a  
32          manufacturing redevelopment district at any time prior to the establishment of the  
33          district shall be liable to any private or third party for civil claims arising out of the  
34          presence of oil, a hazardous substance, or a hazardous waste on the real property if the  
35          cause of action arose after transfer of the property to the new operator under this act,  
36          regardless of when the oil, hazardous substance, or hazardous waste was brought to or  
37          discovered at the site. The qualified immunity provided by this section shall attach at  
38          the time that the Secretary of State approves certification of the manufacturing  
39          redevelopment district or at the time that the real property comprising the manufacturing  
40          redevelopment district is transferred to the new operator, whichever occurs later. The  
41          qualified immunity provided by this section is with respect to any theory of legal  
42          liability, including, but not limited to, any claim of negligence, nuisance, or trespass, or  
43          arising under other common law principles, or arising under any State statute or rule,  
44          including, but not limited to, Article 9 of Chapter 130A of the General Statutes, Articles

1 21 and 21A of Chapter 143 of the General Statutes, and rules adopted pursuant to those  
2 Articles. The qualified immunity provided by this section shall continue in effect after  
3 the termination of the manufacturing redevelopment district."

4 **SECTION 99.5.(e)** If Senate Bill 629 becomes law, then Section 6 of that  
5 act is rewritten to read:

6 "SECTION 6. Manufacturing redevelopment districts: transfer of property to a  
7 subsequent manufacturer.

8 The new operator or its successor in interest shall not transfer the property  
9 comprising the manufacturing redevelopment district to any person, including without  
10 limitation any corporate affiliate of the new operator, until the Secretary of State  
11 certifies that the person has met all of the requirements applicable to a new operator  
12 under subdivisions (7), (8), and (9) of subsection (b) of Section 3 of this act."

13 **SECTION 99.5.(f)** If Senate Bill 629 becomes law, then subsection (a) of  
14 Section 7 of that act is rewritten to read:

15 "(a) The local government entity to which the real property comprising the  
16 manufacturing redevelopment district is transferred pursuant to subdivision (9) of  
17 subsection (b) of Section 3 of this act shall accept title to the real property and shall  
18 immediately transfer title to the new operator. The consideration for the transfer by the  
19 local government entity of title to the new operator shall be the creation of jobs and  
20 economic opportunities that will result from restarting manufacturing operations on the  
21 real property."

22 **SECTION 99.5.(g)** If Senate Bill 629 becomes law, then Section 8 of Senate  
23 Bill 629 is rewritten to read:

24 "SECTION 8. This act is effective when it becomes law. If the Secretary of State  
25 has not approved at least one certification by a new operator of a manufacturing facility  
26 that is required to establish a manufacturing redevelopment district as provided in  
27 subsection (a) of Section 3 of this act prior to 1 September 2008, then this act will  
28 expire on 1 September 2008."

29 **SECTION 99.8.** If Senate Bill 681, 2005 Regular Session, becomes law,  
30 then Section 3 of that act reads as rewritten:

31 "**SECTION 3.** This act ~~is effective when it becomes law.~~ becomes effective  
32 November 1, 2005."

33 **SECTION 99.9.** If Senate Bill 686 becomes law, then Section 8 of that act  
34 reads as rewritten:

35 "**SECTION 8.** The State Bureau of Investigation shall study issues regarding the use  
36 of pseudoephedrine products to make methamphetamine, including any data on the use  
37 of particular pseudoephedrine products in that regard, pertinent law enforcement  
38 statistics, trends observed, and other relevant information, and report annually to the  
39 Commission for Mental Health, Developmental Disabilities, and Substance Abuse  
40 Services, the Legislative Commission on Methamphetamine Abuse, and the Joint  
41 Governmental Operations Subcommittee on Justice and Public Safety. The first report  
42 shall be submitted on or before ~~November 1, 2006.~~ June 30, 2006."

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

1       **"SECTION 4.** The Commission shall issue a special occasion permit under  
2 G.S. 18B-1001(8) to a mixed beverage permittee in a sports facility occupied by a major  
3 league professional sports team with suites available for sale or lease to patrons of the  
4 facility to authorize patrons to make available alcoholic beverages in those suites as if  
5 the patron were a host of a reception, party or other special occasion. If the patron  
6 occupying the suite so desires, alcoholic beverages by self-service may be made  
7 available to any person at least 21 years of age possessing a valid ticket to the event  
8 authorizing that person to occupy the suite. At no event may the patron make available a  
9 quantity of alcoholic beverages in excess of the amount a person is allowed to buy  
10 under G.S. 18B-303(a). A mixed beverage permittee who holds a permit shall provide  
11 mixed beverage tax paid spirituous liquor for resale by the container in approved sizes  
12 of no larger than 750 milliliters to the host or patron of the suite. This section does not  
13 authorize any person possessing a valid ticket to an event at the facility to bring  
14 alcoholic beverages onto the premises and consume those alcoholic beverages on the  
15 premises, or to remove those beverages from the suite.

16       **SECTION 100.5.** If Senate Bill 1149, 2005 Regular Session, becomes law,  
17 then the introductory language of Section 4 of that act is rewritten to read:

18       **"SECTION 4.** G.S. 105-129.15(6) and (7) read as rewritten:".

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

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

36       **"SECTION 10.40B.(b)** This section expires 30 days from the date of the  
37 Department's decision on the new certificate of need or adjournment sine die of the  
38 2005 General Assembly, whichever occurs later."

39       **SECTION 101.7.** Section 28.19 of S.L. 2005-276 reads as rewritten:

40       **"SECTION 28.19.** The Department of Transportation shall report to the Joint  
41 Legislative Transportation Oversight Committee by ~~August 1, 2005,~~ October 1, 2005,  
42 on its plan to clean up ocean outfalls in accordance with Section 30.20 of S.L.  
43 2004-124."



1 sufficient funding for the new North Carolina Museum of Art complex before the end of  
2 the 2006 session of the General Assembly.

3 **SECTION 102.7.(a)** The General Assembly recognizes the importance of  
4 student participation in interscholastic athletics for developing leadership and team  
5 skills, building character, and promoting healthy lifestyles. The General Assembly  
6 believes that fair competition is a prerequisite to achieving these goals and encouraging  
7 student participation in athletics. The General Assembly finds that:

- 8 (1) The level of fair competition is greatly reduced when small schools are  
9 forced to compete with much larger schools rather than schools of  
10 comparable size.
- 11 (2) Unfair competition discourages the development of strong athletic  
12 programs in small schools and could place athletes from small schools  
13 in greater risk of injury.
- 14 (3) The health and safety of student athletes is of the utmost importance.
- 15 (4) Small schools should not be forced to compete in a conference of  
16 much larger schools when a conference of small schools is viable and  
17 desired.
- 18 (5) The unique geography of coastal counties is an important  
19 consideration.

20 **SECTION 102.7.(b)** If at least five small high schools within a geographic  
21 region of the North Carolina High School Athletic Association (NCHSAA) decide to  
22 form a small school conference within the NCHSAA framework, the NCHSAA shall  
23 permit the creation of such small school conference. For purposes of this section, a  
24 "small school" shall mean a secondary school with an average daily membership of 300  
25 students or less, and a "small school conference" shall mean an athletic conference  
26 consisting only of small schools. Such small school conference shall be open to any  
27 small school that is a member school of the NCHSAA and is located in that geographic  
28 region.

29 **SECTION 102.7.(c)** A small school conference created under this section  
30 shall be afforded all rights and privileges granted to other NCHSAA conferences. A  
31 small school that opts to join such a small school conference shall be afforded all rights  
32 and privileges granted to other NCHSAA schools. No school or entity shall discriminate  
33 or retaliate against a small school that opts to join a small school conference.

34 **SECTION 102.7.(d)** A small school conference may be created for the  
35 2005-2006 school year provided the NCHSAA is notified no later than September 15,  
36 2005. Schools joining a small school conference by that date may withdraw, without  
37 penalty, from any scheduling contracts previously entered into for the 2005-2006  
38 season.

39 **SECTION 102.7.(e)** This section applies notwithstanding G.S. 115C-12(23)  
40 and applies only to schools located in Dare, Hyde, Martin, Tyrrell, or Washington  
41 Counties.

### 42 **PART III. EFFECTIVE DATE**

43



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