GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SENATE BILL 602
RATIFIED BILL

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SECTION 1.(c) If House Bill 914, 2005 Regular Session, becomes law, this section is repealed.

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:

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

SECTION 3.(b) Section 2 of Chapter 219 of the 1993 Session Laws is repealed.

SECTION 4. The introductory language for Section 1 of S.L. 2006-39 reads as rewritten:

"**SECTION 1.** ~~G.S. 14-404(a)(1)~~G.S. 14-404(a) reads as rewritten:".

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

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

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

North Carolina

_____ County

I, _____, ~~Clerk of the Superior Court~~ sheriff of said county, do hereby certify that _____, whose place of residence is _____ Street in _____ (or) in _____ Township in _____ County, North Carolina, having this day satisfied me that the possession of a pistol suitable for firing blank cartridges will be used only for lawful purposes, a permit is therefore given said _____ to purchase said pistol from any person, firm or corporation authorized to dispose of the same, this _____ day of _____, _____.

_____

~~Clerk of Superior Court~~ Sheriff

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~Office of Information Technology Services~~".

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

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

(1) When an employee who has the minimum service requirements described in ~~subsection (c)(1) above~~ G.S. 126-1.1 but less than 10 years of cumulative service in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall have priority to any position that becomes available for which the employee is qualified, according to rules and regulations regulating and defining priority as promulgated by the State Personnel Commission; or

(2) When an employee who has 10 years or more cumulative service, including the immediately preceding 12 months, in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall be reassigned to a subject position within the same department or agency, or if necessary within another agency, and within a 35 mile radius of the exempt position, at the same grade and salary, including all across-the-board increases since placement in the position designated as exempt, as his most recent subject position."

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

"(g) A career State employee with:

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

(2) 10 or more years of service who was placed in an exempt managerial position, as defined by G.S. 126-5(b)(2), shall be placed in a comparable position at the same grade and salary equal to that held in the most recent position ~~prior to the promotion~~ before being placed in the exempt managerial position if he or she had to vacate because of violation of G.S. 126-14.2."

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

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

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

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

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

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

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

(1) To deal fairly and effectively with Indian affairs.

(2) To bring local, State, and federal resources into focus for the implementation or continuation of meaningful programs for Indian citizens of the State of North Carolina.

(3) To provide aid and protection for Indians as needs are demonstrated; to prevent undue hardships.

(4) To hold land in trust for the benefit of State-recognized Indian tribes. This subdivision shall not apply to federally recognized Indian tribes.

(5) To assist Indian communities in social and economic development.

(6) To promote recognition of and the right of Indians to pursue cultural and religious traditions considered by them to be sacred and meaningful to Native Americans."

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

"**§ 153A-129. Firearms.**

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

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

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

(1) ~~Land that~~ The land is being taxed at present-use value pursuant to G.S. 105-277.4.

(2) ~~Land that~~ The land meets both of the following conditions:

a. On the date of the resolution of intent for annexation it was being used for actual production and is eligible for present-use value taxation under G.S. 105-277.4, but the land ~~has~~ had not been in use for actual production for the required time under G.S. 105-277.3.

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

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

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

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

(2) For all other purposes, the annexation becomes effective as to each tract of the property or part thereof on the last day of the month in which that tract or part thereof becomes ineligible for classification pursuant to G.S. 105-277.4 or no longer meets the requirements of subdivision (f1)(2) of this section. Until annexation of a tract or a part of a tract becomes effective pursuant to this subdivision, the tract or

part of a tract is not subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes nor is the tract or part of a tract entitled to services provided by the city."

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

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

(1) If the municipality has not provided the services set forth in its plan submitted under the provisions of G.S. 160A-35(3)a on substantially the same basis and in the same manner as such services were provided within the rest of the municipality prior to the effective date of annexation, and

(2) If at the time the writ is sought such services set forth in the plan submitted under the provisions of G.S. 160A-35(3)a are still being provided on substantially the same basis and in the same manner as on the date of annexation of the municipality.

Relief may also be granted by the judge of superior court

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

(2) If contracts for such construction have not yet been let.

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

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

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

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

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

SECTION 18.(b) If House Bill 1963, 2005 Regular Session, becomes law, this section is repealed.

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

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

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

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

Except as provided by Article 12A of this Chapter, the county board of elections shall have power from time to time, by resolution, to establish, alter, discontinue, or create such new election precincts or voting places as it may deem expedient. Upon adoption of a resolution establishing, altering, discontinuing, or creating a precinct or voting place, the board shall give 45 days' notice thereof prior to the next primary or election. Notice shall be given by advertisement in a newspaper having general circulation in the county, by posting a copy of the resolution at the courthouse door and at the office of the county board of elections, and by mailing a copy of the resolution to the chairman of every political party in the county. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. No later than 30 days prior to the primary or election, the county board of elections shall mail a notice of precinct change to each registered voter who as a result of the change will be assigned to a different voting place."

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

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

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

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

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

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

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

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

Announcer	$50.00

Contestant	$25.00
Judge	$50.00
Manager	$100.00
Matchmaker	$200.00
Promoter	$300.00
Referee	$50.00
Timekeeper	$50.00
Second	$25.00.

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

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

Seating Capacity	Fee Amount
Less than 2,000	$100.00
2,000 – 5,000	$200.00
Over 5,000	$300.00.

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

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

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

~~North Carolina Boxing Commission.~~"

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

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

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

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

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

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

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

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

PART II. OTHER CHANGES

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

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

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

"(a) The Conference may:

…

(4) Cooperate with the Administrative Office of the Courts and the ~~Institute of Government~~ School of Government at the University of

North Carolina at Chapel Hill concerning education and training programs for prosecutors and staff."

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

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

…

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

…."

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

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

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

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

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

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

The Attorney General, the Secretary of Crime Control and Public Safety, the Secretary of Correction, the President of The University of North Carolina, the ~~Director of the Institute of Government,~~ Dean of the School of Government at the University of North Carolina at Chapel Hill, the President of the North Carolina Community Colleges System, and the Secretary of Juvenile Justice and Delinquency Prevention shall be continuing members of the Commission during their tenure. These members of the Commission shall serve ex officio and shall perform their duties on the Commission in

addition to the other duties of their offices. The ex officio members may elect to serve personally at any or all meetings of the Commission or may designate, in writing, one member of their respective office, department, university or agency to represent and vote for them on the Commission at all meetings the ex officio members are unable to attend.

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

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

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

…

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

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

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

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

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

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

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

(2) The Property Tax Commission.

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

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

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

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

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

…

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

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

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

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

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

"**§ 120-129. Definitions.**

As used in this Article:

(1) "Document" means all records, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material regardless of physical form or characteristics.

(1a) "Legislative commission" means any commission or committee which the Legislative Services Commission is directed or authorized to staff by law or resolution and which it does, in fact, staff.

(2) "Legislative employee" means employees and officers of the General Assembly, consultants and counsel to members and committees of either house of the General Assembly or of legislative commissions who are paid by State funds, and employees of the ~~Institute of Government;~~ School of Government at the University of North Carolina at Chapel Hill; but does not mean legislators and members of the Council of State.

(3) "Legislator" means a member-elect, member-designate, or member of the North Carolina Senate or House of Representatives."

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

"**§ 120-161. Facilities and staff.**

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

SECTION 29.(l) G.S. 143-64.24, as amended by Section 2.1 of S.L. 2006-95, reads as rewritten:

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

This Article shall not apply to the following agencies:

(1) The General Assembly.

(2) Special study commissions.

(3) The Research Triangle Institute.

(4) ~~The Institute of Government.~~The School of Government at the University of North Carolina at Chapel Hill.

(5) Attorneys employed by the North Carolina Department of Justice.

(6) Physicians or doctors performing contractual services for any State agency.
(7) Independent Review Organizations selected by the Commissioner of Insurance pursuant to G.S. 58-50-85.
(8) The University of North Carolina. The Board of Governors of the University of North Carolina must adopt policies and procedures governing contracts to obtain the services of a consultant by the constituent institutions of the University of North Carolina."

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

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

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

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

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

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

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

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

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

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

…

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

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

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

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

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

NORTH CAROLINA STATE GOVERNMENT:

Members of the General Assembly	1 ea.
Officers of the General Assembly	1 ea.
Offices of the Clerk of each House of the General Assembly	1 ea.
Legislative Services Officer	1
Legislative Library	6
Members of the Council of State	2 ea.
Appointed Secretaries of Executive Departments	2 ea.
Personnel of the Department of the Secretary of State	1 ea.
State Board of Elections	2
Divisions of Archives and History, Director	1
Search Room	3
Publications Section	2
State Library	10
Libraries within State Agencies	1 ea.
Justices of the North Carolina Supreme Court	1 ea.
Judges of the North Carolina Court of Appeals	1 ea.
Judges of the North Carolina Superior Court	1 ea.
Supreme Court Library	12
Court of Appeals Library	2
Clerk of the Supreme Court	1

Clerk of the Court of Appeals 1
Reporter of the Supreme Court and Court of Appeals 1
Administrative Office of the Courts 5
NORTH CAROLINA EDUCATIONAL INSTITUTIONS:
University of North Carolina System
General Administration Offices 12
Chancellors of the Constituent Institutions ..... 1 ea.
University of North Carolina – Chapel Hill Library 15
North Carolina State University Library 5
East Carolina University Library 5
North Carolina Central University Library 5
Appalachian State University Library 4
University of North Carolina – Charlotte Library 4
University of North Carolina – Greensboro Library 4
Western Carolina University Library 4
Other Constituent Institutions Libraries ..... 3 ea.
North Carolina School of the Arts 2
~~Institute of Government~~ ..... ~~2~~
University of North Carolina-Chapel Hill School of Government 2
Community Colleges and Technical Institutes ..... 2 ea.
Private Colleges and Universities
Duke University Library 6
Wake Forest University 6
Campbell University Library 5
Davidson College Library 4
All other Libraries of Senior and Junior Colleges ..... 2 ea.
Public and Private Schools containing grades 8-12 ..... 1 ea.
COUNTY GOVERNMENT:
Clerks of Court ..... 1 ea.
Registers of Deeds ..... 1 ea.
Public Libraries of North Carolina ..... 1 ea.
FEDERAL GOVERNMENT:
President of the United States 1
North Carolina Members of the Presidential Cabinet ..... 1 ea.
North Carolina Members of the United States Congress ..... 2 ea.
Library of Congress 3
Resident Judges of the Federal Judiciary
and United States Attorneys in North Carolina ..... 1 ea.
Secretaries of State of the United States
and Territories ..... 1 ea.

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

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

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

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

SECTION 30.(c) If Senate Bill 1479, 2005 Regular Session, becomes law, this section is repealed.

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

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

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

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

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

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

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

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

(1) The person comes into possession of a weapon by taking or receiving the weapon from another person or by finding the weapon.

(2) The person delivers the weapon, directly or indirectly, as soon as practical to law enforcement authorities."

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

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

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

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

SECTION 33.(b) If Senate Bill 1479, 2005 Regular Session, becomes law, this section is repealed.

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

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

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

a. The prisoner;

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

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

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

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

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

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

…

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

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

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

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

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

…

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

A drivers license that was issued by the Division and is renewed by the Division expires five years after the expiration date of the license that is renewed unless the Division determines that a license of shorter duration should be issued when the applicant holds a visa of limited duration from the United States Department of ~~State.~~ Homeland Security, but in no event shall the license expire later than the applicant's lawful presence in the United States. A person may apply to the Division to renew a license during the 180-day period before the license expires. The Division may not accept an application for renewal made before the 180-day period begins.

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

(1) Is serving on active duty in the armed forces of the United States and is stationed outside this State.

(2) Is a resident of this State and has been residing outside the State for at least 30 continuous days.

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

…

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

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

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

a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Private clubs;
e. Convention centers;
f. Cooking schools;
g. Community theatres;
h. ~~Wineries.~~Wineries;
i. Wine producers."

SECTION 35.5. G.S. 20-85(b) reads as rewritten:

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

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

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

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

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

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

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

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

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

…

(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 his or her 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.:

a. At the self-service storage facility or at the nearest suitable place to where the property is held or stored; or

b. In the county where the obligation secured by the lien was contracted for.

…."

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

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

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

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

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

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

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

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

…

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

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

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

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

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

…."

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

"(a) The register of deeds shall not accept for registration any instrument that requires proof or acknowledgement unless the execution of the instrument by one or more signers appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the said proof or acknowledgement includes the officer's signature, commission expiration date, and official seal, if required. The register of deeds shall accept an instrument for registration that does not require proof or acknowledgement if the instrument otherwise satisfies the requirements of G.S. 161-14. Any document previously recorded or any certified copy of any document previously recorded may be rerecorded, regardless of whether it is being rerecorded pursuant to G.S. 47-36.1. The register of deeds shall not be required to verify or make inquiry concerning (i) the legal sufficiency of any proof or

acknowledgement, (ii) the authority of any officer who took a proof or acknowledgement, ~~or~~ (iii) the legal sufficiency of any document presented for ~~registration.~~registration, or (iv) whether the original document has been changed or altered."

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

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

"(c) Any order may be extended one or more times, as required, provided that the requirements of G.S. 50C-6 or G.S. 50C-7, as appropriate, are satisfied. The court may renew an order, including an order that previously has been renewed, upon a motion by the complainant filed before the expiration of the current order. The court may renew the order for good cause. The commission of an act of unlawful conduct by the respondent after entry of the current order is not required for an order to be renewed. If the motion for extension is uncontested and the complainant seeks no modification of the order, the order may be extended if the complainant's motion or affidavit states that there has been no material change in relevant circumstances since entry of the order and states the reason for the requested extension. Extensions may be granted only in open court and not under the provisions of ~~G.S. 50D-6(c).~~G.S. 50C-6(d)."

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

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

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

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

SECTION 44.(b) If Senate Bill 1479, 2005 Regular Session, becomes law, then G.S. 55-11-05(d), as enacted by Section 22 of S.L. 2005-268 and amended by Section 16(b) of Senate Bill 1479, 2005 Regular Session, reads as rewritten:

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

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

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

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

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

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

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

(1) Each <u>other</u> merging corporation merges into the surviving corporation and the separate existence of each merging corporation except the surviving corporation ceases.

(2) The title to all real estate and other property owned by each merging corporation is vested in the surviving corporation without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger.

(3) The surviving corporation has all liabilities and obligations of each merging corporation.

(4) A proceeding pending by or against any merging corporation may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for a merging corporation whose separate existence ceases in the merger.

(5) If a domestic corporation survives the merger, its articles of incorporation are amended to the extent provided in the articles of merger.

(6) If a foreign corporation or a foreign business corporation survives the merger, it is deemed:

a. To agree that it may be served with process in this State in any proceeding for enforcement (i) of any obligation of any merging domestic corporation and (ii) of any obligation of the surviving foreign corporation or foreign business corporation arising from the merger.

b. To have appointed the Secretary of State as its agent for service of process in any proceeding for enforcement as specified in sub-subdivision a. of this subdivision. Service of process on the Secretary of State shall be made by delivering to, and leaving with, the Secretary of State, or with any clerk authorized by the Secretary of State to accept service of process, duplicate copies of the process and the fee required by G.S. 55A-1-22(b). Upon receipt of service of process on behalf of a surviving foreign corporation or foreign business corporation in the manner provided for in this section, the Secretary of State shall immediately mail a copy of the process by registered or certified mail, return receipt requested, to the surviving foreign corporation or foreign business corporation. If the surviving foreign corporation or foreign business corporation is authorized to transact business or conduct affairs in this State, the address for mailing shall be its principal office designated in the latest document filed with the Secretary of State that is authorized by law to designate the principal office, or if there is no principal office on file, its registered office. If the surviving foreign corporation or foreign business corporation is not authorized to transact business or conduct affairs in this State, the address for mailing shall be the mailing address designated pursuant to G.S. 55A-11-04(a)(2).

The merger shall not affect the liability or absence of liability of any member of a merging corporation for acts, omissions, or obligations of any merging corporation made or incurred prior to the effectiveness of the merger."

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

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

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

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

(1) Statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data.

(2) A determination or action by the converting business entity or by any other person, group, or body.

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

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

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

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

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

SECTION 45.(c) This section becomes effective October 1, 2006.

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

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

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

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

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

…

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

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

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

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

employed as a licensed nurse or been previously employed as a licensed nurse."

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

"Article 12.

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

SECTION 52.(a) G.S. 95-232 reads as rewritten:

"**§ 95-232. Procedural requirements for the administration of controlled substance examinations.**

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

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

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

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

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

Screening test of samples:

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

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

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

…"

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

SECTION 53.(a) G.S. 113A-57 is amended by adding a new subdivision to read:

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

SECTION 53.(b) If Senate Bill 1587, 2005 Regular Session, becomes law, this section is repealed.

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

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

(1) A comprehensive school health education program shall be developed and taught to pupils of the public schools of this State from kindergarten through ninth grade. This program includes age-appropriate instruction in the following subject areas, regardless of

whether this instruction is described as, or incorporated into a description of, "family life education", "family health education", "health education", "family living", "health", "healthful living curriculum", or "self-esteem":

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

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

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

"(3) The State Board of Education shall develop objectives for instruction in the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS) virus infection,~~ HIV/AIDS, that ~~includes~~include emphasis on the importance of parental involvement, abstinence from sex until marriage, and avoiding intravenous drug use. Any program developed under this subdivision shall present techniques and strategies to deal with peer pressure and to offer positive reinforcement and shall teach reasons, skills, and strategies for remaining or becoming abstinent from sexual activity; for appropriate grade levels and classes, shall teach that abstinence from sexual activity until marriage is the only certain means of avoiding out-of-wedlock pregnancy, sexually transmitted ~~diseases,~~ diseases when transmitted through sexual contact, and other associated health and emotional problems, and that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding diseases transmitted by sexual contact, including ~~Acquired Immune Deficiency Syndrome (AIDS);~~HIV/AIDS, shall teach how alcohol and drug use lower inhibitions, which may lead to risky sexual behavior, and shall teach the positive benefits of abstinence until marriage and the risks of premarital sexual activity. ~~Any instruction concerning the causes of sexually transmitted diseases, including Acquired Immune Deficiency Syndrome (AIDS), in cases where homosexual acts are a significant means of transmission, shall include the current legal status of those acts.~~

(4) The State Board of Education shall evaluate abstinence until marriage curricula and their learning materials and shall develop and maintain a recommended list of one or more approved abstinence until marriage curricula. The State Board may develop an abstinence until marriage program to include on the recommended list. The State Board of

Education shall not select or develop a program for inclusion on the recommended list that does not include the positive benefits of abstinence until marriage and the risks of premarital sexual activity as the primary focus. The State Board shall include on the recommended list only programs that include, in appropriate grades and classes, instruction that:

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

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

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

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

(8) Students may receive information about where to obtain contraceptives and abortion referral services only in accordance with a local board's

policy regarding parental consent. Any instruction concerning the use of contraceptives or prophylactics shall provide accurate statistical information on their effectiveness and failure rates for preventing pregnancy and sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS),~~ HIV/AIDS, in actual use among adolescent populations and shall explain clearly the difference between risk reduction and risk elimination through abstinence. The Department of Health and Human Services shall provide the most current available information at the beginning of each school year."

SECTION 54.(d) This section applies beginning with the 2007-2008 school year.

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

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

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

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

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

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

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

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

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

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

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

"(a) The Secretary of Administration, upon consideration of the advice of the Division of Nonpublic Education in the ~~Office of the Governor~~ Department of Administration and representatives of nonpublic schools, shall adopt rules for the procedures a person who is or was enrolled in a home school, in a nonpublic school that is not accredited by the State Board of Education, or in an educational program found

by a court, prior to July 1, 1998, to comply with the compulsory attendance law, must follow and the requirements that person must meet to obtain a driving eligibility certificate. The procedures shall provide that the person who is required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

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

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

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

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

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

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

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

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

(1) At all times:

a. The State Legislative Building;

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

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

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

1. The garden area and outer stairway;

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

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

4. The area bounded by its western outer wall, the extension of a line along its northern outer wall to the middle of Salisbury Street, following the middle line of

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.

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

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

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

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

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

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

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

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

SECTION 61.(c) This section becomes effective October 1, 2006, and applies to appeals filed on or after that date.

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

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

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

(2) Prevent solid material larger than one-sixteenth of an inch, as measured along the shortest axis of the material, from entering the drainfield.

(3) Be designed and constructed to allow for routine maintenance.

(4) Be designed and constructed so as not to require maintenance more frequently than once in any three-year period under normally anticipated use."

SECTION 63.(b) If Senate Bill 1587, 2005 Regular Session, becomes law, this section is repealed.

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

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

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

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

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

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

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

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

(a) ~~Whenever the Plan pays benefits for hospital, surgical, medical, or prescription drug expenses, with respect to any Plan member, the Plan shall be subrogated, to the extent of any payments under the Plan, to all of the Plan member's rights of recovery against liable third parties, regardless of the entity or individual from whom recovery may be due.~~The Plan shall have the right of subrogation upon all of the Plan member's right to recover from a liable third party for payment made under the Plan, for all medical expenses, including provider, hospital, surgical, or prescription drug expenses, to the extent those payments are related to an injury caused by a liable third party. The Plan member shall do nothing to prejudice these rights. The Plan has

the right to first recovery on any amounts so recovered, whether by the Plan or the Plan member, and whether recovered by litigation, arbitration, mediation, settlement, or otherwise. Notwithstanding any other provision of law to the contrary, the recovery limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's right of subrogation of Plan members.

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

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

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

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

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

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

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

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

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

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

SECTION 67.(b) If House Bill 914, 2005 Regular Session, becomes law, effective July 1, 2007, the same amendment to G.S. 143-3.3(g), made by subsection (a) of this section, is also made to G.S. 143B-426.39D(g), as enacted by Section 9 of House Bill 914 and recodified by Senate Bill 198, 2005 Regular Session, or to G.S. 143B-426.39A(g), if it is not recodified.

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

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

(1) The Governor shall make the following appointments:
   a. A flue-cured tobacco farmer.
   b. A flue-cured tobacco farmer.
   c. A person in or displaced from tobacco-related employment.
   d. An at-large appointee.
   e. An at-large appointee.
   f. An at-large appointee.

(2) The President Pro Tempore of the Senate shall make the following appointments:
   a. A flue-cured tobacco farmer.
   b. A flue-cured tobacco farmer.
   c. A ~~burley allotment holder who is also a~~ burley tobacco farmer.
   d. An at-large appointee.
   e. An at-large appointee.
   f. An at-large appointee.

(3) The Speaker of the House of Representatives shall make the following appointments:
   a. A flue-cured tobacco farmer.
   b. A former flue-cured allotment holder who is not also a flue-cured tobacco farmer.
   c. A burley tobacco farmer.

d. An at-large appointee.
e. An at-large appointee.
f. An at-large appointee.

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

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

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

"**§ 143B-437.51. Definitions.**

The following definitions apply in this Part:

(1) Agreement. – A community economic development agreement under G.S. 143B-437.57.

(2) Base ~~years~~ period. – The ~~first 24 months following the date set by the Committee for performance to begin under the agreement~~ period of time set by the Committee during which new employees are to be hired for the positions on which the grant shall be based.

(3) Business. – A corporation, sole proprietorship, cooperative association, partnership, S corporation, limited liability company, nonprofit corporation, or other form of business organization, located either within or outside this State.

(4) Committee. – The Economic Investment Committee established pursuant to G.S. 143B-437.54.

(5) Eligible position. – A position created by a business and filled by a new ~~full-time~~ employee in this State during the base ~~years or in subsequent years of a grant~~ period.

(5a) Enterprise tier. – The classification assigned to an area pursuant to G.S. 105-129.3.

(6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(7) New employee. – A full time employee who represents a net increase in the number of the business's employees statewide. The term includes an employee who previously filled an eligible position who is rehired or called back from a layoff that occurs during or following the base years to a vacant position previously held by that employee or to a new position established during or following the base years.

(8) Overdue tax debt. – Defined in G.S. 105-243.1.

(9) Related member. – Defined in G.S. 105-130.7A.

(10) Withholdings. – The amount withheld by a business from the wages of employees in eligible positions under Article 4A of Chapter 105 of the General Statutes."

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

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

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

(1) The Committee makes an explicit finding that the designation is necessary to secure the project in this State.

(2) The ~~designation~~ agreement contains terms to ensure that the business does not create eligible positions by transferring or shifting to the project existing positions from another project of the business or a related member of the business."

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

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

(1) The name of the business, the proposed location of the project, and the type of activity in which the business will engage at the project site or sites.

(2) The names and addresses of the principals or management of the business, the nature of the business, and the form of business organization under which it is operated.

(3) The financial statements of the business prepared by a certified public accountant and any other financial information the Committee considers necessary.

(4) The number of eligible positions proposed to be created ~~during the base years and thereafter~~ for the project and the salaries for these positions."

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

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

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

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

(1) A detailed description of the proposed project that will result in job creation and the number of new employees to be hired ~~in~~ during the base ~~years and later years~~ period.

(2) The term of the grant and the criteria used to determine the first year for which the grant may be claimed.

(3) The number of eligible positions that are subjects of the grant and a description of those positions and the location of those positions.

(4) The amount of the grant based on a percentage of withholdings.

(5) A method for determining the number of new employees hired during a grant year.

(6) A method for the business to report annually to the Committee the number of eligible positions for which the grant is to be made.

(7) A requirement that the business report to the Committee annually the aggregate amount of withholdings during the grant year.

(8) A provision permitting an audit of the payroll records of the business by the Committee from time to time as the Committee considers necessary.

(9) A provision that requires the Committee to amend an agreement pursuant to G.S. 143B-437.59.

(10) A provision that requires the business to maintain operations at the project location or another location approved by the Committee for at least one hundred fifty percent (150%) of the term of the grant and a provision to permit the Committee to recapture all or part of the grant

at its discretion if the business does not remain at the site for the required term.

(11) A provision that requires the business to maintain employment levels in this State at the level of the year immediately preceding the base ~~years~~ period."

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

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

SECTION 69.(g) If House Bill 2744, 2005 Regular Session, becomes law, this section is repealed.

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

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

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

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

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

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

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

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

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

(a1) A vendor submitting a bid shall disclose in a statement, provided contemporaneously with the bid, where services will be performed under the contract sought, including any subcontracts and whether any services under that contract,

including any subcontracts, are anticipated to be performed outside the United States. Nothing in this section is intended to contravene any existing treaty, law, agreement, or regulation of the United States.

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

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

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

SECTION 72.(b) This section becomes effective October 1, 2006, and applies to all bids submitted on or after that date.

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

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

SECTION 75.5.(a) Section 16 of S.L. 2005-428 is repealed.

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

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

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

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

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

"(a) Only voting systems that have been certified by the State Board of Elections in accordance with the procedures and subject to the standards set forth in this section and that have not been subsequently decertified shall be permitted for use in elections in this State. Those certified voting systems shall be valid in any election held in the State or in any county, municipality, or other electoral district in the State. Subject to all other applicable rules adopted by the State Board of Elections and, with respect to federal elections, subject to all applicable federal regulations governing voting systems, paper ballots marked by the voter and counted by hand shall be deemed a certified voting system. The State Board of Elections shall certify optical scan voting systems, optical scan with ballot markers voting systems, and direct record electronic voting systems if any of those systems meet all applicable requirements of federal and State law. The

State Board may certify additional voting systems only if they meet the requirements of the request for proposal process set forth in this section and only if they generate either a paper ballot or a paper record by which voters may verify their votes before casting them and which provides a backup means of counting the vote that the voter casts. Those voting systems may include optical scan and direct record electronic (DRE) voting systems. In consultation with the Office of Information Technology Services, the State Board shall develop the requests for proposal subject to the provisions of this Chapter and other applicable State laws. Among other requirements, the request for proposal shall require at least all of the following elements:

(1) That the vendor post a bond or letter of credit to cover damages resulting from defects in the voting system. Damages shall include, among other items, any costs of conducting a new election attributable to those defects.

(2) That the voting system comply with all federal requirements for voting systems.

(3) That the voting system must have the capacity to include in precinct returns the votes cast by voters outside of the voter's precinct as required by G.S. 163-132.5G.

(4) With respect to electronic voting systems, that the voting system generate a paper record of each individual vote cast, which paper record shall be maintained in a secure fashion and shall serve as a backup record for purposes of any hand-to-eye count, hand-to-eye recount, or other audit. Electronic systems that employ optical scan technology to count paper ballots shall be deemed to satisfy this requirement.

(5) With respect to DRE voting systems, that the paper record generated by the system be viewable by the voter before the vote is cast electronically, and that the system permit the voter to correct any discrepancy between the electronic vote and the paper record before the vote is cast.

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

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

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

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

~~No~~ If a voting system was acquired or upgraded by a county before August 1, 2005, ~~shall be used in an election during or after 2006 unless~~the county shall not be required to go through the purchasing process described in this subsection if the county can

demonstrate to the State Board of Elections compliance with the requirements in subdivisions (1) through (6) and subdivision (8) of this subsection, where those requirements are applicable to the type of voting system involved. If the county cannot demonstrate to the State Board of Elections that the voting system is in compliance with those subdivisions, the county board shall not use the system in an election during or after 2006, and the county shall be subject to the purchasing requirements of this subsection."

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

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

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

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

SECTION 76.(d) Section 7 of S.L. 2005-323 is repealed.

SECTION 76.8. The catch line to G.S. 158-33 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

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

…

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

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

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

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

SECTION 82.(a) The introductory language of Section 5 of S.L. 2005-123 is rewritten to read:

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

SECTION 82.(b) If Senate Bill 1479, 2005 Regular Session, becomes law, this section is repealed.

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

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

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

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

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

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

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

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

SECTION 91.(a) S.L. 2005-344 is amended by adding a new section to read:

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

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

SECTION 91.(b) G.S. 105-163.2B reads as rewritten:

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

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

SECTION 91.(c) G.S. 114-19.16 reads as rewritten:

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

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

SECTION 91.(d) S.L. 2005-344 is amended by adding a new section to read:

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

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

SECTION 91.(e) If Senate Bill 1523, 2005 Regular Session, becomes law, subsections (b) and (c) of this section are repealed.

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

"**SECTION 19A.4.** Funds appropriated in this act to the Department of Cultural Resources for the 2005-2006 fiscal year for the Edenton Signers Memorial may be used to establish the Memorial on the grounds of the Chowan County Courthouse or Courthouse Green to honor Hugh Williamson, a signer of the United States Constitution."

SECTION 91.7. G.S. 97-18 reads as rewritten:

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

…

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

(d) In any claim for compensation in which the employer or insurer is uncertain on reasonable grounds whether the claim is compensable or whether it has liability for the claim under this Article, the employer or insurer may ~~deny the claim in good faith or~~ initiate compensation payments without prejudice and without admitting liability. The initial payment shall be accompanied by a form prescribed by and filed with the Commission, stating that the payments are being made without prejudice. Payments made pursuant to this subsection may continue until the employer or insurer contests or accepts liability for the claim or 90 days from the date the employer has written or actual notice of the injury or death, whichever occurs first, unless an extension is granted pursuant to this section. Prior to the expiration of the 90-day period, the employer or insurer may upon reasonable grounds apply to the Commission for an extension of not more than 30 days. The initiation of payment does not affect the right of the employer or insurer to continue to investigate or deny the compensability of the claim or its liability therefor during this period. If at any time during the 90-day period or extension thereof, the employer or insurer contests the compensability of the claim or its liability therefor, it may suspend payment of compensation and shall promptly notify the Commission and the employee on a form prescribed by the Commission. The employer or insurer must provide on the prescribed form a detailed statement of its grounds for denying compensability of the claim or its liability therefor. If the employer or insurer does not contest the compensability of the claim or its liability therefor within 90 days from the date it first has written or actual notice of the injury or death, or within such additional period as may be granted by the Commission, it waives the right to contest the compensability of and its liability for the claim under this Article. However, the employer or insurer may contest the compensability of or its liability for the claim after the 90-day period or extension thereof when it can show that material evidence was discovered after that period that could not have been reasonably discovered earlier, in which event the employer or insurer may terminate or suspend compensation subject to the provisions of G.S. 97-18.1.

…."

SECTION 93.(a) G.S. 7A-133(b) reads as rewritten:

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

(1) District Court District 9 consists of Franklin and Granville Counties and the remainder of Vance County not in District Court District 9B.

(2) District Court District 9B consists of Warren County and East Henderson I, North Henderson I, North Henderson II, Middleburg, Townsville, and Williamsboro Precincts of Vance County.

(3) District Court District ~~20B~~ 20C consists of the remainder of Union County not in District Court District ~~20C.~~ 20B.

(4) District Court District ~~20C~~ 20B consists of Precinct 01: Tract 204.01: Block Group 2: Block 2040, Block 2057, Block 2058, Block 2060, Block 2061, Block 2062, Block 2064, Block 2065; Tract 204.02: Block Group 2: Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2006, Block 2007, Block 2008, Block 2009, Block 2010, Block 2011, Block 2012, Block 2013, Block 2014, Block 2015, Block 2016, Block 2017, Block 2018, Block 2023, Block 2024, Block 2025, Block 2026, Block 2027, Block 2028, Block 2029, Block 2030, Block 2031, Block 2032, Block 2033, Block 2034; Block Group 3: Block 3000, Block 3003, Block 3004, Block 3005, Block 3006, Block 3007, Block 3008, Block 3009, Block 3010, Block 3011, Block 3012, Block 3013, Block 3014, Block 3015, Block 3016, Block 3017, Block 3018, Block 3019, Block 3020, Block 3021, Block 3022, Block 3023, Block 3024, Block 3025, Block 3026, Block 3027, Block 3028, Block 3029, Block 3030, Block 3031, Block 3032, Block 3033, Block 3034, Block 3035, Block 3036, Block 3037, Block 3038, Block 3039, Block 3040, Block 3041, Block 3042, Block 3043, Block 3044, Block 3045, Block 3046, Block 3047; Block Group 4: Block 4035, Block 4054, Block 4055; Precinct 02: Tract 205: Block Group 1: Block 1000, Block 1001, Block 1002, Block 1003, Block 1004, Block 1005, Block 1006, Block 1007, Block 1009, Block 1010, Block 1011, Block 1012, Block 1013, Block 1014, Block 1015, Block 1016, Block 1017, Block 1018, Block 1019, Block 1020, Block 1021, Block 1022, Block 1023, Block 1037, Block 1038; Block Group 2: Block 2081, Block 2082, Block 2092, Block 2099, Block 2100, Block 2101, Block 2102; Tract 206: Block Group 3: Block 3036, Block 3038, Block 3039, Block 3040, Block 3048; Block Group 4: Block 4053; Precinct 03, Precinct 04, Precinct 06: Tract 202.02: Block Group 1: Block 1012, Block 1013, Block 1014, Block 1015, Block 1017, Block 1018, Block 1021, Block 1022, Block 1023; Tract 204.01: Block Group 2: Block 2000, Block 2001, Block 2002, Block 2003, Block 2004, Block 2005, Block 2033, Block 2034, Block 2035, Block 2036, Block 2041, Block 2042, Block 2043, Block 2044, Block 2045, Block 2056, Block 2063, Block 2999; Precinct 08, Precinct 09, Precinct 10, Precinct 13, Precinct 23: Tract 206: Block Group 4: Block 4051; Precinct 25: Tract 206: Block Group 4: Block 4036; Precinct 34, Precinct 36, Precinct 43 of Union County.

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

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

SECTION 93.(c) If House Bill 198, 2005 Regular Session, becomes law, this section is repealed.

SECTION 94.(a) Section 5 of S.L. 2005-305 is repealed.

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

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

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

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

SECTION 97. Section 6 of S.L. 2005-389 reads as rewritten:

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

SECTION 98. Section 4 of S.L. 2005-360 is repealed.

SECTION 98.1. G.S. 20-45(c), as amended by Section 2.1 of S.L. 2006-105, reads as rewritten:

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

SECTION 98.3. Part 2J of Article 10 of Chapter 143B of the General Statutes reads as rewritten:

"Part 2J. Wine and Grape Growers Council.

"**§ 143B-437.90. North Carolina Wine and Grape Growers Council – Creation; powers and duties.**

There is created the North Carolina Wine and Grape Growers Council of the Department of Commerce. The North Carolina Wine and Grape Growers Council shall have the following powers and duties:

….

"**§ 143B-437.91. North Carolina Wine and Grape Growers Council – Composition; terms; reimbursement.**

(a) The North Carolina Wine and Grape Growers Council shall consist of 11 members appointed by the Secretary of Commerce in the following manner: seven commercial grape growers; three winery operators; and one retailer of North Carolina grape products. For purposes of this Article, a commercial grape grower is one who has at least three acres of grapes or sells ten thousand dollars ($10,000) worth of grapes annually. The Secretary shall appoint members for staggered four-year terms. Members shall serve until their successors are appointed and qualified. Any member of the Council may be reappointed for additional terms. Any appointment to fill a vacancy on

the Council shall be for the balance of the unexpired term. Any member of the Council may be removed by the Secretary for misfeasance, malfeasance, or nonfeasance."

SECTION 98.3.(b) G.S. 105-113.81A reads as rewritten:

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

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

SECTION 98.5.(a) G.S. 130A-309.10 is amended by adding a new subsection to read:

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

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

SECTION 98.5.(c) Section 4 of S.L. 2005-362 is rewritten to read:

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

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

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

SECTION 99.4.(a) G.S. 120-47.7B, as enacted in Section 1 of S.L. 2005-456, is amended by adding a new subsection to read:

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

SECTION 99.4.(c) G.S. 147-54.39, as enacted in Section 2 of S.L. 2005-456, is amended by adding a new subsection to read:

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

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

SECTION 99.4.(d) G.S. 147-54.41(d), as enacted in Section 2 of S.L. 2005-456, reads as rewritten:

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

SECTION 99.4.(e) G.S. 147-54.41(e)(2), as enacted in Section 2 of S.L. 2005-456, reads as rewritten:

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

…

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

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

SECTION 99.4.(g) This section is only effective if House Bill 1842, 2005 Regular Session, is not enacted.

SECTION 99.5.(a) Subsection (a) of Section 3 of S.L. 2005-462 is rewritten to read:

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

SECTION 99.5.(b) Sub-subdivision b. of subdivision (7) of subsection (b) of Section 3 of S.L. 2005-462 is rewritten to read:

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

SECTION 99.5.(c) Subdivision (8) of subsection (b) of Section 3 of S.L. 2005-462 is rewritten to read:

"(8) The new operator provides financial assurance, acceptable to the Department of Environment and Natural Resources, for the fulfillment of the requirements set out in sub-subdivisions b. and c. of subdivision (7) of subsection (b) of this section. The financial assurance shall include a prefunded escrow account or other financing mechanism, in an amount not less than five million dollars ($5,000,000), that runs in favor of the State in the event of a default. The establishment of the prefunded account shall not relieve the new operator of its obligation to comply with applicable federal and State laws, regulations, and rules, and shall not be construed to alter the authority of the

Department of Environment and Natural Resources to enforce the requirements of applicable federal and State laws, regulations, and rules. The Department of Environment and Natural Resources shall: (i) review the financial assurance contemplated by this act in light of reasonably available financial assurance and guaranteed remediation products and in light of known and reasonably anticipated unknown environmental conditions at the manufacturing redevelopment district, and (ii) approve or disapprove the financial assurance within 45 days after the new operator submits a complete financial assurance proposal, including copies of the proposed financial assurance instrument or mechanism, to the Department of Environment and Natural Resources. The requirement that the financial assurance is acceptable to the Department of Environment and Natural Resources shall be waived if the Department of Environment and Natural Resources does not complete its review within the 45-day period. The 45-day review period may be extended if the new operator and the Department of Environment and Natural Resources mutually agree to the extension."

SECTION 99.5.(d) Subsection (a) of Section 4 of S.L. 2005-462 is rewritten to read:

"(a) No person who owned or had an interest in any real property within a manufacturing redevelopment district at any time prior to the establishment of the district shall be liable to any private or third party for civil claims arising out of the presence of oil, a hazardous substance, or a hazardous waste on the real property if the cause of action arose after transfer of the property to the new operator under this act, regardless of when the oil, hazardous substance, or hazardous waste was brought to or discovered at the site. The qualified immunity provided by this section shall attach at the time that the Secretary of State approves certification of the manufacturing redevelopment district or at the time that the real property comprising the manufacturing redevelopment district is transferred to the new operator, whichever occurs later. The qualified immunity provided by this section is with respect to any theory of legal liability, including, but not limited to, any claim of negligence, nuisance, or trespass, or arising under other common law principles, or arising under any State statute or rule, including, but not limited to, Article 9 of Chapter 130A of the General Statutes, Articles 21 and 21A of Chapter 143 of the General Statutes, and rules adopted pursuant to those Articles. The qualified immunity provided by this section shall continue in effect after the termination of the manufacturing redevelopment district."

SECTION 99.5.(e) Section 6 of S.L. 2005-462 is rewritten to read:

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

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

SECTION 99.5.(f) Subsection (a) of Section 7 of S.L. 2005-462 is rewritten to read:

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

SECTION 99.5.(g) Section 8 of S.L. 2005-462 is rewritten to read:

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

SECTION 100. G.S. 18B-1006(p) reads as rewritten:

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

SECTION 101.9. Section 13 of S.L. 2005-305 is amended by adding the following at the end: "Sections 4.1 and 4.2 of this act are effective when they become law."

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

(1) With regard to employer-provided rescue procedures, employers must ensure that at least two trained and designated rescue employees are on-site when employees are working at heights over six feet on the tower, except that where only two employees are on-site, then an employer may comply with this requirement if one employee is a trained and designated rescue employee and one employee has been employed for less than nine months and has received documented orientation from the employer outlining steps to take in an emergency.

(2) With regard to third-party-provided rescue procedures, the employer must obtain verification from the third-party rescue service that the service is able to respond to a rescue summons in a timely manner and that the service is proficient in rescue-related tasks and equipment needed to rescue climbers from elevated heights on communication structures. The employer must also provide the selected third-party rescue service with contact information regarding the tower site and allow the service to conduct whatever preparation for rescue it deems necessary.

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

PART III. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 27th day of July, 2006.

_____
Beverly E. Perdue
President of the Senate

_____
James B. Black
Speaker of the House of Representatives

_____
Michael F. Easley
Governor

Approved _____.m. this _____ day of _____, 2006