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(Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING
CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE
GENERAL STATUTES COMMISSION, TO AUTHORIZE FINANCING OF A
NEW CLINICAL CANCER CENTER, AND TO MAKE VARIOUS OTHER
CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

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

SECTION 1. G.S. 14-402(c)(3) reads as rewritten:

"(c) The following definitions apply in this section:

...

(3) Crossbow. – A mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This ~~device~~ device is mechanically held at full or partial draw and released by a trigger or similar mechanism ~~which~~ that is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.

..."

SECTION 2. G.S. 20-7(b1) reads as rewritten:

"(b1) Application. – To obtain ~~a~~ 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 demonstrate his or her physical and mental ability to drive

1 safely a motor vehicle included in the class of license for which the person has applied.
2 At least one of the forms of identification shall indicate the applicant's residence
3 address. The Division may copy the identification presented or hold it for a brief period
4 of time to verify its authenticity. To obtain an endorsement, a person shall demonstrate
5 his or her physical and mental ability to drive safely the type of motor vehicle for which
6 the endorsement is required.

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

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

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

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

24 **SECTION 3.** G.S. 49-13.1 is repealed.

25 **SECTION 4.** G.S. 55B-2(6), as amended by Section 3 of S.L. 2003-117,
26 reads as rewritten:

- 27 "(6) The term "professional service" means any type of personal or
28 professional service of the public which requires as a condition
29 precedent to the rendering of such service the obtaining of a license
30 from a licensing board as herein defined, and pursuant to the following
31 provisions of the General Statutes: Chapter 83A, "Architects"; Chapter
32 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the
33 following Articles in Chapter 90: Article 1, "Practice of Medicine,"
34 Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy,"
35 Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with
36 regard to registered nurses, Article 11, "Veterinarians," Article 12A,
37 "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C,
38 "Marriage and Family Therapy Licensure," Article 18D, "Occupational
39 Therapy," and Article 24, "Licensed Professional Counselors"; Chapter
40 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape
41 Architects"; Chapter 90B, "Social Worker Certification and Licensure
42 Act" with regard to ~~Certified~~ Licensed Clinical Social Workers as
43 defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B,

1 "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing
2 Act."

3 **SECTION 5.(a)** G.S. 58-36-10(3) reads as rewritten:

4 **"§ 58-36-10. Method of rate making; factors considered.**

5 The following standards shall apply to the making and use of rates:

6 ...

- 7 (3) In the case of property insurance rates under this Article, consideration
8 may be given to the experience of property insurance business during
9 the most recent five-year period for which that experience is available.
10 In the case of property insurance rates under this Article, consideration
11 shall be given to the insurance public protection classifications of fire
12 districts established by the Commissioner. The Commissioner shall
13 establish and modify from time to time insurance public protection
14 districts for all rural areas of the State and for cities with populations
15 of 100,000 or fewer, according to the most recent annual population
16 estimates certified by the State ~~Planning~~ Budget Officer. In
17 establishing and modifying these districts, the Commissioner shall use
18 standards at least equivalent to those used by the Insurance Services
19 Office, Inc., or any successor organization. The standards developed
20 by the Commissioner are subject to Article 2A of Chapter 150B of the
21 General Statutes. The insurance public protection classifications
22 established by the Commissioner issued pursuant to the provisions of
23 this Article shall be subject to appeal as provided in G.S. 58-2-75, et
24 seq. The exceptions stated in G.S. 58-2-75(a) do not apply.

25 ..."

26 **SECTION 5.(b)** G.S. 58-40-25(4) reads as rewritten:

27 **"§ 58-40-25. Rating methods.**

28 In determining whether rates comply with the standards under G.S. 58-40-20, the
29 following criteria shall be applied:

30 ...

- 31 (4) In the case of property insurance rates under this Article, consideration
32 shall be given to the insurance public protection classifications of fire
33 districts established by the Commissioner. The Commissioner shall
34 establish and modify from time to time insurance public protection
35 districts for all rural areas of the State and for cities with populations
36 of 100,000 or fewer, according to the most recent annual population
37 estimates certified by the State ~~Planning~~ Budget Officer. In
38 establishing and modifying these districts, the Commissioner shall use
39 standards at least equivalent to those used by the Insurance Services
40 Office, Inc., or any successor organization. The standards developed
41 by the Commissioner are subject to Article 2A of Chapter 150B of the
42 General Statutes. The insurance public protection classifications
43 established by the Commissioner issued pursuant to the provisions of

1 this Article shall be subject to appeal as provided in G.S. 58-2-75, et
2 seq. The exceptions stated in G.S. 58-2-75(a) do not apply."

3 **SECTION 5.(c)** G.S. 58-87-1(b) reads as rewritten:

4 "(b) A fire department is eligible for a grant under this section if it meets all of the
5 following conditions:

6 (1) It serves a response area of 6,000 or less in population.

7 (2) It consists entirely of volunteer members, with the exception that the
8 unit may have paid members to fill the equivalent of three full-time
9 paid positions.

10 (3) It has been certified by the Department of Insurance.

11 In making the population determination under subdivision (1) of this subsection, the
12 Department shall use the most recent annual population estimates certified by the State
13 ~~Planning-Budget Officer.~~"

14 **SECTION 5.(d)** G.S. 105-113.82(e) reads as rewritten:

15 "(e) Population Estimates. – To determine the population of a city or county for
16 purposes of the distribution required by this section, the Secretary shall use the most
17 recent annual estimate of population certified by the State ~~Planning-Budget Officer.~~"

18 **SECTION 5.(e)** G.S. 105-129.3(b1) reads as rewritten:

19 "(b1) Data. – In measuring rates of unemployment and per capita income, the
20 Secretary shall use the latest available data published by a State or federal agency
21 generally recognized as having expertise concerning the data. In measuring population
22 and population growth, the Secretary shall use the most recent estimates of population
23 certified by the State ~~Planning-Budget Officer.~~"

24 **SECTION 5.(f)** G.S. 105-129.3A(a) reads as rewritten:

25 "(a) Development Zone Defined. – A development zone is an area comprised of
26 one or more contiguous census tracts, census block groups, or both in the most recent
27 federal decennial census that meets all of the following conditions:

28 (1) Every census tract and census block group in the zone is located in
29 whole or in part within the primary corporate limits of a city with a
30 population of more than 5,000 according to the most recent annual
31 population estimates certified by the State ~~Planning-Budget Officer.~~

32 (2) It has a population of 1,000 or more according to the most recent
33 annual population estimates certified by the State ~~Planning-Budget~~
34 ~~Officer.~~

35 (3) More than twenty percent (20%) of its population is below the poverty
36 level according to the most recent federal decennial census.

37 (4) Every census tract and census block group in the zone meets at least
38 one of the following conditions:

39 a. More than ten percent (10%) of its population is below the
40 poverty level according to the most recent federal decennial
41 census.

42 b. It is immediately adjacent to another census tract or census
43 block group that is in the same zone and has more than twenty

1 percent (20%) of its population below the poverty level
2 according to the most recent federal decennial census.

- 3 (5) None of the census tracts or census block groups in the zone is located
4 in another development zone designated by the Secretary of
5 Commerce."

6 **SECTION 5.(g)** G.S. 105-164.44F(b) reads as rewritten:

7 "(b) Share of Cities Incorporated on or After January 1, 2001. – The share of a
8 city incorporated on or after January 1, 2001, is its per capita share of the amount to be
9 distributed to all cities incorporated on or after this date. This amount is the proportion
10 of the total to be distributed under this section that is the same as the proportion of the
11 population of cities incorporated on or after January 1, 2001, compared to the
12 population of all cities. In making the distribution under this subsection, the Secretary
13 must use the most recent annual population estimates certified to the Secretary by the
14 State ~~Planning~~ Budget Officer."

15 **SECTION 5.(h)** G.S. 105-187.19(b) reads as rewritten:

16 "(b) Each quarter, the Secretary shall credit five percent (5%) of the net tax
17 proceeds to the Solid Waste Management Trust Fund and shall credit twenty-seven
18 percent (27%) of the net tax proceeds to the Scrap Tire Disposal Account. The Secretary
19 shall distribute the remaining sixty-eight percent (68%) of the net tax proceeds among
20 the counties on a per capita basis according to the most recent annual population
21 estimates certified to the Secretary by the State ~~Planning~~ Budget Officer."

22 **SECTION 5.(i)** G.S. 105-187.24 reads as rewritten:

23 "**§ 105-187.24. Use of tax proceeds.**

24 The Secretary shall distribute the taxes collected under this Article, less the
25 Department of Revenue's allowance for administrative expenses, in accordance with this
26 section. The Secretary may retain the Department's cost of collection, not to exceed two
27 hundred twenty-five thousand dollars (\$225,000) a year, as reimbursement to the
28 Department.

29 Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to
30 the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the
31 net tax proceeds to the White Goods Management Account. The Secretary shall
32 distribute the remaining seventy-two percent (72%) of the net tax proceeds among the
33 counties on a per capita basis according to the most recent annual population estimates
34 certified to the Secretary by the State ~~Planning~~ Budget Officer. The Department shall
35 not distribute the tax proceeds to a county when notified not to do so by the Department
36 of Environment and Natural Resources under G.S. 130A-309.87. If a county is not
37 entitled to a distribution, the proceeds allocated for that county will be credited to the
38 White Goods Management Account.

39 A county may use funds distributed to it under this section only as provided in G.S.
40 130A-309.82. A county that receives funds under this section and that has an interlocal
41 agreement with another unit of local government under which the other unit provides
42 for the disposal of solid waste for the county must transfer the amount received under
43 this section to that other unit. A unit to which funds are transferred is subject to the
44 same restrictions on use of the funds as the county."

1 **SECTION 5.(j)** Effective July 1, 2003, G.S. 105-472(b) reads as rewritten:

2 "(b) **Distribution Between Counties and Cities.** – The Secretary shall divide the
3 amount allocated to each taxing county among the county and its municipalities in
4 accordance with the method determined by the county. The board of county
5 commissioners shall, by resolution, choose one of the following methods of distribution:

6 (1) **Per Capita Method.** – The net proceeds of the tax collected in a taxing
7 county shall be distributed to that county and to the municipalities in
8 the county on a per capita basis according to the total population of the
9 taxing county, plus the total population of the municipalities in the
10 county. In the case of a municipality located in more than one county,
11 only that part of its population living in the taxing county is considered
12 its "total population". In order to make the distribution, the Secretary
13 shall determine a per capita figure by dividing the amount allocated to
14 each taxing county by the total population of that county plus the total
15 population of all municipalities in the county. The Secretary shall then
16 multiply this per capita figure by the population of the taxing county
17 and by the population of each municipality in the county; each
18 respective product shall be the amount to be distributed to the county
19 and to each municipality in the county. To determine the population of
20 each county and each municipality, the Secretary shall use the most
21 recent annual estimate of population certified by the State ~~Planning~~
22 Budget Officer.

23 (2) **Ad Valorem Method.** – The net proceeds of the tax collected in a
24 taxing county shall be distributed to that county and the municipalities
25 in the county in proportion to the total amount of ad valorem taxes
26 levied by each on property having a tax situs in the taxing county
27 during the fiscal year next preceding the distribution. For purposes of
28 this section, the amount of the ad valorem taxes levied by a county or
29 municipality includes ad valorem taxes levied by the county or
30 municipality in behalf of a taxing district and collected by the county
31 or municipality. In addition, the amount of taxes levied by a county
32 includes ad valorem taxes levied by a merged school administrative
33 unit described in G.S. 115C-513 in the part of the unit located in the
34 county. In computing the amount of tax proceeds to be distributed to
35 each county and municipality, the amount of any ad valorem taxes
36 levied but not substantially collected shall be ignored. Each county and
37 municipality receiving a distribution of the proceeds of the tax levied
38 under this Article shall in turn immediately share the proceeds with
39 each district in behalf of which the county or municipality levied ad
40 valorem taxes in the proportion that the district levy bears to the total
41 levy of the county or municipality. Any county or municipality that
42 fails to provide the Department of Revenue with information
43 concerning ad valorem taxes levied by it adequate to permit a timely
44 determination of its appropriate share of tax proceeds collected under

1 this Article may be excluded by the Secretary from each monthly
2 distribution with respect to which the information was not provided in
3 a timely manner, and those tax proceeds shall then be distributed only
4 to the remaining counties or municipalities, as appropriate. For the
5 purpose of computing the distribution of the tax under this subsection
6 to any county and the municipalities located in the county for any
7 month with respect to which the property valuation of a public service
8 company is the subject of an appeal and the Department of Revenue is
9 restrained by law from certifying the valuation to the county and the
10 municipalities in the county, the Department shall use the last property
11 valuation of the public service company that has been certified.

12 The board of county commissioners in each taxing county shall, by resolution
13 adopted during the month of April of each year, determine which of the two foregoing
14 methods of distribution shall be in effect in the county during the next succeeding fiscal
15 year. In order for the resolution to be effective, a certified copy of it must be delivered
16 to the Secretary in Raleigh within 15 calendar days after its adoption. If the board fails
17 to adopt a resolution choosing a method of distribution not then in effect in the county,
18 or if a certified copy of the resolution is not timely delivered to the Secretary, the
19 method of distribution then in effect in the county shall continue in effect for the
20 following fiscal year. The method of distribution in effect on the first of July of each
21 fiscal year shall apply to every distribution made during that fiscal year."

22 **SECTION 5.(k)** G.S. 136-202(c) reads as rewritten:

23 "(c) The Department, the metropolitan planning organizations, and the
24 Department of Environment and Natural Resources shall jointly evaluate and adjust the
25 regions defined in each regional travel demand model at least once every five years and
26 no later than October 1 of the year following each decennial federal census. The
27 evaluation and adjustment shall be based on decennial census data and the most recent
28 populations estimates certified by the State ~~Planning-Budget~~ Officer. The adjustment of
29 these boundaries shall reflect current and projected patterns of population, employment,
30 travel, congestion, commuting, and public transportation use and the effects of these
31 patterns on air quality."

32 **SECTION 5.(l)** G.S. 143-215.107A(d) reads as rewritten:

33 "(d) Additional Counties. – The Commission may require that motor vehicle
34 emissions inspections be performed in counties in addition to those set out in subsection
35 (c) of this section. In determining whether to require that motor vehicle emissions
36 inspections be performed in a county, the Commission may consider the population of,
37 and distribution of population in, the county; the projected change in population of, and
38 distribution of population in, the county; the number of vehicles registered in the
39 county; the projected change in the number of vehicles registered in the county; vehicle
40 miles traveled in the county; the projected change in vehicle miles traveled in the
41 county; current and projected commuting patterns in the county; and the current and
42 projected impact of these factors on attainment of air quality standards in the county and
43 in areas outside the county. The Commission may not require that motor vehicle
44 emissions inspections be performed in any county with a population of less than 40,000

1 based on the most recent population estimates prepared by the State ~~Planning-Budget~~
2 Officer. The Commission may not require that motor vehicle emissions inspections be
3 performed in any county in which the number of vehicle miles traveled per day is less
4 than 900,000, based on the most recent estimates prepared by the Department of
5 Transportation. In order to disapprove a rule that requires that motor vehicle emissions
6 inspections be performed in one or more additional counties, a bill introduced pursuant
7 to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other
8 counties in which the total population and vehicle miles traveled per day equal or
9 exceed the total population and vehicle miles traveled in the county or counties listed in
10 the rule that the bill would disapprove."

11 **SECTION 5.(m)** G.S. 160A-536(c) reads as rewritten:

12 "(c) Urban Area Revitalization Defined. – As used in this section, the term "urban
13 area revitalization projects" includes the provision within an urban area of any service
14 or facility that may be provided in a downtown area as a downtown revitalization
15 project under subdivision (a)(2) and subsection (b) of this section. As used in this
16 section, the term "urban area" means an area that (i) is located within a city whose
17 population exceeds 150,000 according to the most recent annual population statistics
18 certified by the State ~~Planning-Budget~~ Officer and (ii) meets one or more of the
19 following conditions:

- 20 (1) It is the central business district of the city.
- 21 (2) It consists primarily of existing or redeveloping concentrations of
22 industrial, retail, wholesale, office, or significant
23 employment-generating uses, or any combination of these uses.
- 24 (3) It is located in or along a major transportation corridor and does not
25 include any residential parcels that are not, at their closest point, within
26 150 feet of the major transportation corridor right-of-way or any
27 nonresidentially zoned parcels that are not, at their closest point,
28 within 1,500 feet of the major transportation corridor right-of-way.
- 29 (4) It has as its center and focus a major concentration of public or
30 institutional uses, such as airports, seaports, colleges or universities,
31 hospitals and health care facilities, or governmental facilities."

32 **SECTION 5.(n)** G.S. 162A-6(a)(14d) reads as rewritten:

33 "(a) Each authority created hereunder shall be deemed to be a public
34 instrumentality exercising public and essential governmental functions to provide for
35 the public health and welfare, and each authority is authorized and empowered:

36 ...

- 37 (14d) To require the owners of developed property on which there are
38 situated one or more residential dwelling units or commercial
39 establishments located within the jurisdiction of the authority and
40 within a reasonable distance of any waterline or sewer collection line
41 owned, leased as lessee, or operated by the authority to connect the
42 property with the waterline, sewer connection line, or both and fix
43 charges for the connections. The power granted by this subdivision
44 may be exercised by an authority only to the extent that the service,

1 whether water, sewer, or a combination thereof, to be provided by the
2 authority is not then being provided to the improved property by any
3 other political subdivision or by a public utility regulated by the North
4 Carolina Utilities Commission pursuant to Chapter 62 of the General
5 Statutes. In the case of improved property that would qualify for the
6 issuance of a building permit for the construction of one or more
7 residential dwelling units or commercial establishments and where the
8 authority has installed water or sewer lines or a combination thereof
9 directly available to the property, the authority may require payment of
10 a periodic availability charge, not to exceed the minimum periodic
11 service charge for properties that are connected. This subdivision
12 applies only to a water and sewer authority whose membership
13 includes part or all of a county that has a population of at least 40,000
14 according to the most recent annual population estimates certified by
15 the State ~~Planning~~Budget Officer.

16 ..."

17 **SECTION 6.** G.S. 78A-17 reads as rewritten:

18 **"§ 78A-17. Exempt transactions.**

19 Except as otherwise provided in this Chapter, the following transactions are
20 exempted from G.S. 78A-24 and G.S. 78A-49(d):

- 21 (1) Any isolated nonissuer transaction, whether effected through a dealer
22 or ~~not~~not.
- 23 (2) Any nonissuer distribution other than by a controlling person of an
24 outstanding security if
- 25 a. A recognized securities manual contains the names of the
26 issuer's officers and directors, a balance sheet of the issuer as of
27 a date within 18 months, and a profit and loss statement for
28 either the fiscal year preceding that date or the most recent year
29 of operations, or
- 30 b. A registered dealer files with the Administrator such
31 information relating to the issuer as the Administrator may by
32 rule or order require, or
- 33 c. The security has a fixed maturity or a fixed interest or dividend
34 provision and there has been no default during the current fiscal
35 year or within the three preceding fiscal years, or during the
36 existence of the issuer and any predecessors if less than three
37 years, in the payment of principal, interest, or dividends on the
38 ~~security~~security.
- 39 (3) Any nonissuer transaction effected by or through a registered dealer
40 pursuant to an unsolicited order or offer to buy; but the Administrator
41 may by rule require that the customer acknowledge upon a specified
42 form that the sale was unsolicited, and that a signed copy of each such
43 form be preserved by the dealer for a specified ~~period~~period.

- 1 (4) Any transaction between the issuer or other person on whose behalf
2 the offering is made and an underwriter, or among
3 ~~underwriters;~~underwriters.
- 4 (5) Any transaction in a bond or other evidence of indebtedness secured
5 by a lien or security interest in real or personal property, or by an
6 agreement for the sale of real estate or chattels, if the entire security
7 interest or agreement, together with all the bonds or other evidences of
8 indebtedness secured thereby, is offered and sold as a ~~unit;~~unit.
- 9 (6) Any transaction by an executor, administrator, sheriff, marshal,
10 receiver, trustee in bankruptcy, guardian, or ~~conservator;~~conservator.
- 11 (7) Any transaction executed by a person holding a bona fide security
12 interest without any purpose of evading this ~~Chapter;~~Chapter.
- 13 (8) Any offer or sale to an entity which has a net worth in excess of one
14 million dollars (\$1,000,000) as determined by generally accepted
15 accounting principles, bank, savings institution, trust company,
16 insurance company, investment company as defined in the Investment
17 Company Act of 1940, pension or profit-sharing trust, or other
18 financial institution or institutional buyer, or to a dealer, whether the
19 purchaser is acting for itself or in some fiduciary ~~capacity;~~capacity.
- 20 (9) Any transaction pursuant to an offer directed by the offeror to not
21 more than 25 persons, other than those persons designated in
22 subdivision (8), in this State during any period of 12 consecutive
23 months, whether or not the offeror or any of the offerees is then
24 present in this State, if the seller reasonably believes that all the buyers
25 in this State are purchasing for investment. The Administrator may by
26 rule or order withdraw, amend, or further condition this exemption for
27 any security or security transaction. There is established a fee of one
28 hundred fifty dollars (\$150.00) to recover costs for any filing required.
- 29 (10) Any offer or sale of a preorganizational certificate or subscription if:
30 (i) no commission or other remuneration is paid or given directly or
31 indirectly for soliciting any prospective subscriber; (ii) no public
32 advertising or solicitation is used in connection with the offer or sale;
33 (iii) the number of subscribers does not exceed 10 and the number of
34 offerees does not exceed 25; and (iv) no payment is made by any
35 subscriber.
- 36 (11) Any transaction pursuant to an offer to existing security holders of the
37 issuer, including persons who at the time of the transaction are holders
38 of convertible securities, nontransferable warrants, or transferable
39 warrants exercisable within not more than 90 days of their issuance, if
40 (i) no commission or other remuneration (other than a standby
41 commission) is paid or given directly or indirectly for soliciting any
42 security holder in this State, or (ii) the issuer first files a notice
43 specifying the terms of the offer and the Administrator does not by

order disallow the exemption within the next 10 full business ~~days;~~days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this Chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either ~~act;~~act.

(13) Any offer or sale by a domestic entity of its own securities if (i) the entity was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (ii) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, (iii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State, and (iv) the ~~corporation~~entity is both organized and operated principally to promote some community, industrial, or agricultural development that confers a public benefit rather than organized and operated principally to generate a pecuniary ~~profit;~~profit.

(14) Any offer, sale or issuance of securities pursuant to an employees' stock or equity purchase, option, savings, pension, profit-sharing, or other similar benefit plan that is exempt under the provisions of ~~G.S. 78A-16(11);~~G.S. 78A-16(11).

..."

SECTION 7. G.S. 90-210.69(c) reads as rewritten:

"(c) In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

- (1) Offering to engage or engaging in activities for which a license is required under this Article but without having obtained such a license.
- (2) Aiding or abetting an unlicensed person, firm, partnership, association, corporation or other entity to offer to engage or engage in such activities.
- (3) A crime involving fraud or moral turpitude by conviction thereof.
- (4) Fraud or misrepresentation in obtaining or receiving a license or in preneed funeral planning.
- (5) False or misleading advertising.
- (6) Violating or cooperating with others to violate any provision of this Article, the rules and regulations of the Board, ~~adopted~~—or the

1 standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984),
2 as amended from time to time.

3 In any case in which the Board is authorized to take any of the actions permitted
4 under this subsection, the Board may instead accept an offer in compromise of the
5 charges whereby the accused shall pay to the Board a penalty of not more than five
6 thousand dollars (\$5,000). In any case in which the Board is entitled to place a licensee
7 on a term of probation, the Board may also impose a penalty of not more than five
8 thousand dollars (\$5,000) in conjunction with such probation."

9 **SECTION 8.** G.S. 96-4(t)(2) reads as rewritten:

10 "(t) Confidentiality of Records, Reports, and Information Obtained from
11 Claimants, Employers, and Units of Government.

12 ...

13 (2) Job Service Information. – (i) Except as hereinafter otherwise provided
14 it is unlawful for any person to disclose any information obtained by
15 the North Carolina State Employment Service Division from workers,
16 employers, applicants, or other persons or groups of persons in the
17 course of administering the State Public Employment Service
18 Program. Provided, however, that if all interested parties waive in
19 writing the right to hold such information confidential, the information
20 may be disclosed and used but only for those purposes that the parties
21 and the Commission have agreed upon in writing. (ii) The
22 Employment Service Division shall make public, through the
23 newspapers and any other suitable media, information as to job
24 openings and available applicants for the purpose of supplying the
25 demand for workers and employment. (iii) The Labor Market
26 Information Division shall collect, collate, and publish statistical and
27 other information relating to the work under the Commission's
28 jurisdiction; investigate economic developments, and the extent and
29 causes of unemployment and its remedies with the view of preparing
30 for the information of the General Assembly such facts as in the
31 Commission's opinion may make further legislation desirable. (iv)
32 Except as provided by Commission regulation, any information
33 published pursuant to this ~~subsection (H)~~ subdivision shall not be
34 published in any manner revealing the identity of the applicant or the
35 employing unit.

36 ..."

37 **SECTION 9.** G.S. 110-136.13(a) reads as rewritten:

38 "(a) For purposes of this section, G.S. 110-136.11, 110-136.12, and ~~110-14~~, 110-
39 136.14, the term "employer" means employer as is defined at 29 U.S.C. § 203(d) in the
40 Fair Labor Standards Act."

41 **SECTION 10.** G.S. 143-129.8(b) reads as rewritten:

42 "(b) Contracts for information technology may be entered into under a request for
43 proposals procedure that satisfies the following minimum requirements:

- 1 (1) Notice of the request for proposals shall be given in accordance with
 2 ~~G.S. 143-129(a)~~. G.S. 143-129(b).
 3 (2) Contracts shall be awarded to the person or entity that submits the best
 4 overall proposal as determined by the awarding authority. Factors to be
 5 considered in awarding contracts shall be identified in the request for
 6 proposals."

7 **SECTION 11.** G.S. 147-69 reads as rewritten:

8 "**§ 147-69. Deposits of State funds in banks and savings and loan associations**
 9 **regulated.**

10 Banks and savings and loan associations having State deposits shall furnish to the
 11 Auditor of the State, upon ~~his~~the Auditor's request, a statement of the moneys which
 12 have been received and paid by them on account of the treasury. The Treasurer shall
 13 keep in ~~his~~the Treasurer's office a full account of all moneys deposited in and drawn
 14 from all banks and savings and loan associations in which ~~he~~the Treasurer may deposit
 15 or cause to be deposited any of the public funds, and ~~such~~these accounts shall be open
 16 to the inspection of the Auditor. The Treasurer shall sign all checks, and no depository
 17 bank or savings and loan association shall be authorized to pay checks not bearing ~~his~~
 18 the Treasurer's official signature. The Treasurer is authorized to use a facsimile
 19 signature machine or device in affixing ~~his~~the Treasurer's signature to warrants, checks
 20 or any other instrument ~~he~~the Treasurer is required by law to sign. The Commissioner
 21 of ~~Banks and Banks~~, the bank examiners, and ~~the Commissioner of Banks and~~ the
 22 savings and loan examiners, when so required by the State Treasurer, shall keep the
 23 State Treasurer fully informed at all times as to the condition of all ~~such~~these
 24 depository banks and savings and loan associations, so as to fully protect the State from
 25 loss. The State Treasurer shall, before making deposits in any bank or savings and loan
 26 association, require ample security from the bank or savings and loan association for
 27 ~~such deposit~~these deposits."

28 **SECTION 12.(a)** G.S. 163-278.39B is recodified as G.S. 163-278.38Z under
 29 Part 1A of Article 22A of Chapter 163 of the General Statutes, so that the recodified
 30 section appears as the first section in Part 1A.

31 **SECTION 12.(b)** G.S. 163-278.6 reads as rewritten:

32 "**§ 163-278.6. Definitions.**

33 When used in this Article:

- 34 ...
 35 (2) The term "broadcasting station" means any commercial radio or
 36 television station or community antenna radio or television station.
 37 Special definitions of 'radio' and 'television' that apply only in Part 1A
 38 of this Article are set forth in G.S. 163-278.38Z.
 39 ...
 40 (4) The term "candidate" means any individual who, with respect to a
 41 public office listed in G.S. 163-278.6(18), has filed a notice of
 42 candidacy or a petition requesting to be a candidate, or has been
 43 certified as a nominee of a political party for a vacancy, has otherwise
 44 qualified as a candidate in a manner authorized by law, or has received

1 funds or made payments or has given the consent for anyone else to
2 receive funds or transfer anything of value for the purpose of exploring
3 or bringing about that individual's nomination or election to office.
4 Transferring anything of value includes incurring an obligation to
5 transfer anything of value. Status as a candidate for the purpose of this
6 Article continues if the individual is receiving contributions to repay
7 loans or cover a deficit or is making expenditures to satisfy obligations
8 from an election already held. Special definitions of 'candidate' and
9 'candidate campaign committee' that apply only in Part 1A of this
10 Article are set forth in G.S. 163-278.38Z.

11 (5) The term "communications media" or "media" means broadcasting
12 stations, carrier current stations, newspapers, magazines, periodicals,
13 outdoor advertising facilities, billboards, newspaper inserts, and any
14 person or individual whose business is polling public opinion,
15 analyzing or predicting voter behavior or voter preferences. Special
16 definitions of 'print media,' 'radio,' and 'television' that apply only in
17 Part 1A of this Article are set forth in G.S. 163-278.38Z.

18 ...
19 (14) The term "political committee" means a combination of two or more
20 individuals, such as any person, committee, association, organization,
21 or other entity that makes, or accepts anything of value to make,
22 contributions or expenditures and has one or more of the following
23 characteristics:
24 a. Is controlled by a candidate;
25 b. Is a political party or executive committee of a political party or
26 is controlled by a political party or executive committee of a
27 political party;
28 c. Is created by a corporation, business entity, insurance company,
29 labor union, or professional association pursuant to G.S.
30 163-278.19(b); or
31 d. Has as a major purpose to support or oppose the nomination or
32 election of one or more clearly identified candidates.

33 Supporting or opposing the election of clearly identified candidates
34 includes supporting or opposing the candidates of a clearly identified
35 political party.

36 An entity is rebuttably presumed to have as a major purpose to
37 support or oppose the nomination or election of one or more clearly
38 identified candidates if it contributes or expends or both contributes
39 and expends during an election cycle more than three thousand dollars
40 (\$3,000). The presumption may be rebutted by showing that the
41 contributions and expenditures giving rise to the presumption were not
42 a major part of activities of the organization during the election cycle.
43 Contributions to referendum committees and expenditures to support
44 or oppose ballot issues shall not be facts considered to give rise to the

1 presumption or otherwise be used in determining whether an entity is a
2 political committee.

3 If the entity qualifies as a "political committee" under
4 sub-subdivision a., b., c., or d. of this subdivision, it continues to be a
5 political committee if it receives contributions or makes expenditures
6 or maintains assets or liabilities. A political committee ceases to exist
7 when it winds up its operations, disposes of its assets, and files its final
8 report.

9 Special definitions of 'political action committee' and 'candidate
10 campaign committee' that apply only in Part 1A of this Article are set
11 forth in G.S. 163-278.38Z.

12 (15) The term "political party" means any political party organized or
13 operating in this State, whether or not that party is recognized under
14 the provisions of G.S. 163-96. A special definition of 'political party
15 organization' that applies only in Part 1A of this Article is set forth in
16 G.S. 163-278.38Z.

17 ..."

18 **SECTION 13.(a)** Section 1 of S.L. 2001-37 is repealed.

19 **SECTION 13.(b)** S.L. 2001-37 is amended by adding a new section to read:

20 "SECTION 1.1. G.S. 160A-58.1(b)(5) does not apply to the Cities of Marion,
21 Oxford, and Rockingham and the Towns of Calabash, Catawba, Dallas, Godwin,
22 Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville."

23 **SECTION 13.(c)** G.S. 160-58.1(b)(5) reads as rewritten:

24 "(5) The area within the proposed satellite corporate limits, when added to
25 the area within all other satellite corporate limits, may not exceed ten
26 percent (10%) of the area within the primary corporate limits of the
27 annexing city.

28 This subdivision does not apply to the Cities of Claremont,
29 Concord, Conover, Hickory, Marion, Mount Airy, New Bern, Newton,
30 Oxford, Rockingham, Sanford, Salisbury, Southport, and Statesville,
31 and the Towns of Calabash, Catawba, Dallas, Godwin, Kenly,
32 Louisburg, Maiden, Midland, Mocksville, Mooresville, Pembroke,
33 Rutherfordton, Swansboro, ~~and Warsaw~~, Warsaw, and Waynesville."

34 **SECTION 13.(d)** G.S. 160A-58.1(b1) is repealed.

35 36 PART II. OTHER CHANGES

37
38 **SECTION 14.** G.S. 1-44.2(b) reads as rewritten:

39 "(b) ~~Persons claiming ownership contrary to the presumption established in this~~
40 ~~section shall have a period of one year from the date of enactment of this statute or the~~
41 ~~abandonment of such easement, whichever later occurs, in which to bring any action to~~
42 ~~establish their ownership.~~The presumption established by this section is rebuttable by
43 showing that a party has good and valid title to the land."

44 **SECTION 15.(a)** G.S. 1-47(1) reads as rewritten:

1 **"§ 1-47. Ten years.**

2 Within ten years an action –

- 3 (1) Upon a judgment or decree of any court of the United States, or of any
4 state or territory thereof, from the date of its ~~rendition~~-entry. No such
5 action may be brought more than once, or have the effect to continue
6 the lien of the original judgment.

7 ..."

8 **SECTION 15.(b)** G.S. 1-52(8) reads as rewritten:

9 **"§ 1-52. Three years.**

10 Within three years an action –

11 ...

- 12 (8) For fees due to a clerk, sheriff or other officer, by the judgment of a
13 court; within three years from the ~~rendition~~-entry of the judgment, or
14 the issuing of the last execution thereon.

15 ..."

16 **SECTION 16.** G.S. 7A-16 reads as rewritten:

17 **"§ 7A-16. Creation and organization.**

18 The Court of Appeals is created effective January 1, 1967. It shall consist initially of
19 six judges, elected by the qualified voters of the State for terms of eight years. The
20 Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to
21 serve in such capacity at the pleasure of the Chief Justice. Before entering upon the
22 duties of his office, a judge of the Court of Appeals shall take the oath of office
23 prescribed for a judge of the General Court of Justice.

24 The Governor on or after July 1, 1967, shall make temporary appointments to the six
25 initial judgeships. The appointees shall serve until January 1, 1969. Their successors
26 shall be elected at the general election for members of the General Assembly in
27 November, 1968, and shall take office on January 1, 1969, to serve for the remainder of
28 the unexpired term which began on January 1, 1967.

29 Upon the appointment of at least five judges, and the designation of a Chief Judge,
30 the court is authorized to convene, organize, and promulgate, subject to the approval of
31 the Supreme Court, such supplementary rules as it deems necessary and appropriate for
32 the discharge of the judicial business lawfully assigned to it.

33 Effective January 1, 1969, the number of judges is increased to nine, and the
34 Governor, on or after March 1, 1969, shall make temporary appointments to the
35 additional judgeships thus created. The appointees shall serve until January 1, 1971.
36 Their successors shall be elected at the general election for members of the General
37 Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the
38 remainder of the unexpired term which began on January 1, 1969.

39 Effective January 1, 1977, the number of judges is increased to 12; and the
40 Governor, on or after July 1, 1977, shall make temporary appointments to the additional
41 judgeships thus created. The appointees shall serve until January 1, 1979. Their
42 successors shall be elected at the general election for members of the General Assembly
43 in November, 1978, and shall take office on January 1, 1979, to serve the remainder of
44 the unexpired term which began on January 1, 1977.

1 On or after December 15, 2000, the Governor shall appoint three additional judges
2 to increase the number of judges to 15. ~~Each judgeship shall not become effective until~~
3 ~~the temporary appointment is made, and each appointee shall serve from the date of~~
4 ~~qualification until January 1, 2005. Those judges' successors shall be elected in the 2004~~
5 ~~general election and shall take office on January 1, 2005, to serve terms expiring~~
6 ~~December 31, 2012.~~

7 The Court of Appeals shall sit in panels of three judges each. The Chief Judge
8 insofar as practicable shall assign the members to panels in such fashion that each
9 member sits a substantially equal number of times with each other member. He shall
10 preside over the panel of which he is a member, and shall designate the presiding judge
11 of the other panel or panels.

12 Three judges shall constitute a quorum for the transaction of the business of the
13 court, except as may be provided in ~~§ 7A-32.~~G.S. 7A-32.

14 In the event the Chief Judge is unable, on account of absence or temporary
15 incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall
16 appoint an acting Chief Judge from the other judges of the Court, to temporarily
17 discharge the duties of Chief Judge."

18 **SECTION 17.** G.S. 7B-808(b), as enacted by Section 2 of S.L. 2003-140,
19 reads as rewritten:

20 "(b) The director of the department of social services shall prepare the
21 predisposition report for the court containing the results of any mental health evaluation
22 ~~of a juvenile~~ under G.S. 7B-503, a placement plan, and a treatment plan the director
23 deems appropriate to meet the juvenile's needs."

24 **SECTION 18.** The catch line of G.S. 8-53.5 reads as rewritten:

25 "**§ 8-53.5. Communications between licensed marital and family therapist and**
26 **client(s).**"

27 **SECTION 19.(a)** G.S. 14-202.4, as amended by Section 2 of S.L. 2003-98,
28 reads as rewritten:

29 "**§ 14-202.4. Taking indecent liberties with a student.**

30 (a) If a defendant, who is a teacher, school administrator, student teacher, school
31 safety officer, or coach, at any age, or who is other school personnel and is at least four
32 years older than the victim, takes indecent liberties with a victim who is a student, at
33 any time during or after the time the defendant and victim were present together in the
34 same school but before the victim ceases to be a student, the defendant is guilty of a
35 Class I felony, unless the conduct is covered under some other provision of law
36 providing for greater punishment. ~~The term "same school" means a school at which the~~
37 ~~student is enrolled and the defendant is employed, assigned, or volunteers.~~ A person is
38 not guilty of taking indecent liberties with a student if the person is lawfully married to
39 the student.

40 (b) If a defendant, who is school personnel, other than a teacher, school
41 administrator, student teacher, school safety officer, or coach, and who is less than four
42 years older than the victim, takes indecent liberties with a student as provided in
43 subsection (a) of this section, the defendant is guilty of a Class A1 misdemeanor.

44 (c) Consent is not a defense to a charge under this section.

1 (d) For purposes of this section, the following definitions apply:

2 (1) "Indecent liberties" means:

- 3 a. Willfully taking or attempting to take any immoral, improper,
4 or indecent liberties with a student for the purpose of arousing
5 or gratifying sexual desire; or
6 b. Willfully committing or attempting to commit any lewd or
7 lascivious act upon or with the body or any part or member of
8 the body of a student.

9 For purposes of this section, the term indecent liberties does not
10 include vaginal intercourse or a sexual act as defined by G.S. 14-27.1.

11 (1a) "Same school" means a school at which (i) the student is enrolled or is
12 present for a school-sponsored or school-related activity and (ii) the
13 school personnel is employed, volunteers, or is present for a school-
14 sponsored or school-related activity.

15 (2) "School" means any public school, charter school, or nonpublic school
16 under Parts 1 and 2 of Article 39 of Chapter 115C of the General
17 Statutes.

18 (3) "School personnel" means any person included in the definition
19 contained in G.S. 115C-332(a)(2), and any person who volunteers at a
20 school or a school-sponsored activity.

21 (3a) "School safety officer" means any other person who is regularly
22 present in a school for the purpose of promoting and maintaining safe
23 and orderly schools and includes a school resource officer.

24 (4) "Student" means a person enrolled in kindergarten, or in grade one
25 through grade 12 in any school."

26 **SECTION 19.(b)** This section becomes effective December 1, 2003, and
27 applies to offenses committed on or after that date.

28 **SECTION 20.** G.S. 14-298 reads as rewritten:

29 **~~"§ 14-298. Gaming tables, illegal punchboards, slot machines, and prohibited~~**
30 **~~video game machines to be destroyed by police officers.~~** **Seizure of illegal**
31 **gaming items.**

32 ~~All sheriffs and officers of police are hereby authorized and directed, on information~~
33 ~~made to them on oath~~ Upon a determination that probable cause exists to believe that
34 any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal
35 punchboard or illegal slot machine, or any video game machine prohibited to be used by
36 G.S. 14-306 or G.S. 14-306.1, is in the illegal possession or use of any person within the
37 limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to
38 seize the items in accordance with applicable State law. ~~to destroy the same by every~~
39 ~~means in their power; and they shall call to their aid all the good citizens of the county,~~
40 ~~if necessary, to effect its destruction.~~ Any law enforcement agency in possession of that
41 item shall retain the item pending a disposition order from a district or superior court
42 judge. Upon application by the law enforcement agency, district attorney, or owner, and
43 after notice and opportunity to be heard by all parties, if the court determines that the
44 item is unlawful to possess, it shall enter an order releasing the item to the law

1 enforcement agency for destruction or for training purposes. If the court determines that
2 the item is not unlawful to possess and will not be used in violation of the law, the item
3 shall be ordered released to its owner upon satisfactory proof of ownership. The
4 foregoing procedures for release shall not apply, however, with respect to an item seized
5 for use as evidence in any criminal action or proceeding until after entry of final
6 judgment."

7 **SECTION 21.** G.S. 14-401.5 is repealed.

8 **SECTION 22.** G.S. 15-190 reads as rewritten:

9 **"§ 15-190. Person or persons to be designated by warden to execute sentence;**
10 **supervision of execution; who shall be present.**

11 Some guard or guards or other reliable person or persons to be named and
12 designated by the warden from time to time shall cause the person, convict or felon
13 against whom the death sentence has been so pronounced to be executed as provided by
14 this Article and all amendments thereto. The execution shall be under the general
15 supervision and control of the warden of the penitentiary, who shall from time to time,
16 in writing, name and designate the guard or guards or other reliable person or persons
17 who shall cause the person, convict or felon against whom the death sentence has been
18 pronounced to be executed as provided by this Article and all amendments thereto. At
19 such execution there shall be present the warden or deputy warden or some person
20 designated by the warden in the warden's place, and the surgeon or physician of the
21 penitentiary. Four respectable citizens, two members of the victim's family, the counsel
22 and any relatives of such person, convict or felon and a minister or member of the
23 clergy or religious leader of the person's choosing may be present if they so desire. The
24 names of persons designated to carry out the execution shall be confidential and
25 exempted under Chapter 132 of the General Statutes and are not subject to discovery or
26 introduction as evidence in any proceeding. The Senior Resident Superior Court Judge
27 for Wake County may compel disclosure of names made confidential by this section
28 after making findings that support a conclusion that disclosure is necessary to a proper
29 administration of justice."

30 **SECTION 22.5.** G.S. 18B-101(7a) reads as rewritten:

31 **"§ 18B-101. Definitions.**

32 As used in this Chapter, unless the context requires otherwise:

33 ...

34 (7a) "Historic ABC establishment" means a restaurant or hotel that meets
35 all of the following requirements:

- 36 a. Is on the national register of historic ~~places~~places or located
37 within a State historic district.
- 38 b. Is a property designed to attract local, State, national, and
39 international tourists located on a State Route (SR) and with a
40 property line located within 1.5 miles of the intersection of a
41 designated North Carolina scenic byway as defined in G.S.
42 136-18(31).
- 43 c. Is located within 15 miles of a national scenic highway.

- 1 d. Is located in a county in which the on-premises sale of malt
2 beverages or unfortified wine is authorized in two or more cities
3 in the county.

4 ..."

5 **SECTION 23.** G.S. 18B-600(f), as amended by Section 1 of S.L. 2003-218,
6 reads as rewritten:

7 "(f) Township Elections. – An election may be called on any of the propositions
8 listed in G.S. 18B-602 in any township located within:

- 9 (1) A county where ABC stores have heretofore been established by
10 petition pursuant to law.
- 11 (2) A county where ABC stores have been established pursuant to law, in
12 which county according to data from the North Carolina Department
13 of Commerce: (i) one-third or more of the employment is travel
14 related, (ii) spending on travel exceeds four hundred million dollars
15 (\$400,000,000) per year, and where the entirety of two townships
16 consists of one island (and several smaller islands not making up more
17 than one percent (1%) of the total land area of the two townships)
18 where that island:
- 19 a. Has a population of 4,000 or over according to the most recent
20 decennial federal census;
- 21 b. Is located with one side facing the ocean and another side
22 facing a coastal sound.
- 23 (3) ~~A county where the population of all cities in the county that have
24 previously approved the sale of any kind of alcoholic beverages
25 comprises more than twenty percent (20%) of the total county
26 population as of the most recent federal census.~~

27 An election may be called on any of the propositions listed in G.S. 18B-602(a), (d), and
28 (h) in any township located within a county where the population of all cities in the
29 county that have previously approved the sale of any kind of alcoholic beverages
30 comprises more than twenty percent (20%) of the total county population as of the most
31 recent federal census. In the case of subdivision (2) of this section, an election may be
32 called in the two townships voting together on the proposition contained in G.S.
33 18B-602(h).

34 The election shall be held by the county board of elections upon request of the
35 county board of commissioners or upon petition of twenty-five percent (25%) of the
36 registered voters of the township, or in the case of subdivision (2) of this section, of the
37 two townships taken together. The election shall be conducted and the results
38 determined in the same manner as county elections held under this Article. For purposes
39 of this Article, townships holding any election under this subsection shall be treated on
40 the same basis as counties, and municipalities located within those townships shall be
41 treated on the same basis as cities. In the case of an election under subdivision (2) of
42 this subsection, the votes of the two townships counted together shall determine the
43 result of the election.

1 For purposes of this subsection, the name and boundary of a township is as it is
2 shown on the Redistricting Census 2000 TIGER Files with modifications made by the
3 Legislative Services Office on its computer database as of May 1, 2001.

4 In any township election held under this subsection, the area within any incorporated
5 municipality is excluded, and no permits may be issued under this subsection in any
6 excluded area.

7 In order for an establishment to qualify for a permit under this subsection, the
8 establishment's gross receipts from food and nonalcoholic beverages shall be greater
9 than its gross receipts from alcoholic beverages."

10 **SECTION 23.5.(a)** G.S. 18B-900(a) reads as rewritten:

11 "(a) Requirements. – To be eligible to receive and to hold an ABC permit, a
12 person shall:

13 ...

14 (6) Not have had an alcoholic beverage permit revoked within three ~~years.~~
15 years, except where the revocation was based solely on a permittee's
16 failure to pay the annual registration and inspection fee required in
17 G.S. 18B-903(b1)."

18 **SECTION 23.5.(b)** G.S. 18B-903(b1) reads as rewritten:

19 "(b1) Registration. – Each person holding a malt beverage, fortified wine, or
20 unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S.
21 18B-902(d)(6) shall register by May 1 of each year on a form provided by the
22 Commission, in order to provide information needed by the State in enforcing this
23 Chapter and to support the costs of that enforcement. The registration required by this
24 subsection shall be accompanied by an annual registration and inspection fee of two
25 hundred dollars (\$200.00) for each permit held. The fee shall be paid by May 1 of each
26 year. A registration fee shall not be refundable. Failure to pay the annual registration
27 and inspection fee shall result in revocation of the permit."

28 **SECTION 24.** G.S. 18B-1006(j)(4) is repealed.

29 **SECTION 25.** G.S. 18B-1006(m) reads as rewritten:

30 "(m) Interstate Interchange Economic Development Zones. –

31 (1) The Commission may issue permits listed in G.S. 18B-1001(10),
32 without approval at an election, to qualified establishments defined in
33 G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate
34 highway interchange located in a county that:

- 35 a. Has approved the sale of malt beverages, unfortified wine, and
36 fortified wine, but not mixed beverages;
37 b. Operates ABC stores;
38 c. Borders on another state; and
39 d. Lies north and east of the Roanoke River.

40 (2) The Commission may issue permits listed in G.S. 18B-1001(1), (3),
41 (5), and (10) to qualified establishments defined in G.S. 18B-1000(4),
42 (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4)
43 to qualified establishments defined in G.S. 18B-1000(3) in any county
44 that qualifies for issuance of permits pursuant to G.S. 18B-1006(k)(5).

1 These permits may be issued without approval at an election and shall
2 be issued only to qualified establishments that meet any of the
3 following requirements:

- 4 a. Located within one mile of any interstate highway interchange
5 in that county.
6 b. Located within one mile of an establishment issued a permit
7 under G.S. 18B-1006(k)(5).

8 ~~(3) The Commission may issue permits listed in G.S. 18B-1001(10),
9 without approval at an election, to qualified establishments defined in
10 G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate
11 highway interchange located in a county that meets all of the following
12 requirements:~~

- 13 ~~a. Has approved the sale of malt beverages, unfortified wine,
14 fortified wine, but not mixed beverages.
15 ~~b. Contains one city that has approved the sale of malt beverages,
16 unfortified wine, fortified wine, and mixed beverages.
17 ~~c. Operates ABC stores.
18 ~~d. Lies south and west of the Roanoke River and shares a common
19 border with a county qualifying in subdivision (1) of this
20 subsection.~~~~~~~~

21 ~~This subsection shall also apply to an establishment in a county included in
22 subdivision (3) of this subsection if the establishment is located within two miles of an
23 interstate highway interchange that is within three miles of the common border
24 described in sub-subdivision (3)d. of this subsection."~~

25 **SECTION 25.5.** G.S. 18B-1104(7) reads as rewritten:

26 "(7) In areas where the sale is legal, sell the brewery's malt beverages at the
27 brewery upon receiving a permit under G.S. 18B-1001(1). The
28 brewery also may obtain a malt beverage wholesaler permit to sell,
29 deliver, and ship at wholesale only malt beverages manufactured by
30 the brewery. The authorization of this subdivision applies to a
31 brewery that sells, to consumers at the brewery, to wholesalers, to
32 retailers, and to exporters, fewer than 310,000 gallons of malt
33 beverages produced by it per year. A brewery not exceeding the sales
34 quantity limitations in this subdivision may also sell the malt
35 beverages manufactured by the brewery at not more than three other
36 locations in the State upon obtaining the appropriate permits under
37 G.S. 18B-1001. A brewery operating any additional retail location
38 pursuant to this subdivision shall also offer for sale at that location a
39 reasonable selection of competitive malt beverage products."

40 **SECTION 26.** G.S. 30-3.6(c), as enacted by Section 5 of S.L. 2003-296,
41 reads as rewritten:

42 "(c) A written waiver that would have been effective to waive a spouse's right to
43 dissent in estates of decedents dying on or before December 31, 2000, under Article 1 of
44 Chapter 30 of the General Statutes is effective to waive that spouse's right of elective

1 share under this Article for estates of ~~decedent's~~ decedents dying on or after January 1,
2 2001."

3 **SECTION 27.(a)** G.S. 35A-1213(b) reads as rewritten:

4 "(b) ~~An individual appointed as general guardian or guardian of the estate must be~~
5 ~~a resident of the State of North Carolina.~~ A nonresident of the State of North Carolina,
6 to be appointed as general guardian, guardian of the ~~person~~ person, or guardian of the
7 estate of a North Carolina resident, must indicate in writing his willingness to submit to
8 the jurisdiction of the North Carolina courts in matters relating to the guardianship and
9 must appoint a resident agent to accept service of process for the guardian in all actions
10 or proceedings with respect to the guardianship. Such appointment must be approved by
11 and filed with the clerk, and any agent so appointed must notify the clerk of any change
12 in the agent's address or legal residence. The clerk ~~may~~ shall require a nonresident
13 guardian of the estate or a nonresident general guardian to post a bond or other security
14 for the faithful performance of the guardian's duties. The clerk may require a
15 nonresident guardian of the person to post a bond or other security for the faithful
16 performance of the guardian's duties."

17 **SECTION 27.(b)** G.S. 35A-1290(c) reads as rewritten:

18 "(c) It is the clerk's duty to remove a ~~guardian~~ guardian, without hearing, in the
19 following cases:

- 20 (1) The guardian has been adjudged incompetent by a court of competent
21 jurisdiction and has not been restored to competence.
- 22 (2) The guardian has been convicted of a felony under the laws of the
23 United States or of any state or territory of the United States or of the
24 District of Columbia and his citizenship has not been restored.
- 25 (3) The guardian was originally unqualified for appointment and continues
26 to be unqualified, or the guardian would no longer qualify for
27 appointment as guardian due to a change in residence, a change in the
28 charter of a corporate guardian, or any other reason.
- 29 (4) The guardian is the ward's spouse and has lost his rights as provided
30 by Chapter 31A of the General Statutes.
- 31 (5) The guardian fails to post, renew, or increase a bond as required by
32 law or by order of the court.
- 33 (6) The guardian refuses or fails without justification to obey any citation,
34 notice, or process served on him in regard to the guardianship.
- 35 (7) The guardian fails to file required accountings with the clerk.
- 36 (8) The clerk finds the guardian unsuitable to continue serving as guardian
37 for any reason.
- 38 (9) The guardian is a nonresident of the State and refuses or fails to obey
39 any citation, notice, or process served on the guardian or the guardian's
40 process agent."

41 **SECTION 28.(a)** G.S.40A-3(b) reads as rewritten:

42 "(b) ~~Local Public Condemners.~~Standard Provision. – For the public use or benefit,
43 the governing body of each municipality or county shall possess the power of eminent

1 domain and may acquire by purchase, gift or condemnation any property, either inside
2 or outside its boundaries, for the following purposes.

- 3 (1) Opening, widening, extending, or improving roads, streets, alleys, and
4 sidewalks. The authority contained in this subsection is in addition to
5 the authority to acquire rights-of-way for streets, sidewalks and
6 highways under Article 9 of Chapter 136. The provisions of this
7 subdivision (1) shall not apply to counties.
- 8 (2) Establishing, extending, enlarging, or improving any of the public
9 enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for
10 counties.
- 11 (3) Establishing, enlarging, or improving parks, playgrounds, and other
12 recreational facilities.
- 13 (4) Establishing, extending, enlarging, or improving storm sewer and
14 drainage systems and works, or sewer and septic tank lines and
15 systems.
- 16 (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or
17 library facilities.
- 18 (6) Constructing, enlarging, or improving city halls, fire stations, office
19 buildings, courthouse jails and other buildings for use by any
20 department, board, commission or agency.
- 21 (7) Establishing drainage programs and programs to prevent obstructions
22 to the natural flow of streams, creeks and natural water channels or
23 improving drainage facilities. The authority contained in this
24 subdivision is in addition to any authority contained in Chapter 156.
- 25 (8) Acquiring designated historic properties, designated as such before
26 October 1, 1989, or acquiring a designated landmark designated as
27 such on or after October 1, 1989, for which an application has been
28 made for a certificate of appropriateness for demolition, in pursuance
29 of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part
30 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is
31 appropriate.
- 32 (9) Opening, widening, extending, or improving public wharves.

33 The board of education of any municipality or county or a combined board may
34 exercise the power of eminent domain under this Chapter for purposes authorized by
35 other statutes.

36 The power of eminent domain shall be exercised by local public condemners under
37 the procedures of Article 3 of this Chapter."

38 **SECTION 28.(b)** G.S. 40A-3(b1), as amended by Section 1 of S.L.
39 2003-282, reads as rewritten:

40 "~~(b1) Local Public Condemners.~~ Modified Provision for Certain Localities. – For
41 the public use or benefit, the governing body of each municipality or county shall
42 possess the power of eminent domain and may acquire by purchase, gift or
43 condemnation any property or interest therein, either inside or outside its boundaries, for
44 the following purposes.

- 1 (1) Opening, widening, extending, or improving roads, streets, alleys, and
2 sidewalks. The authority contained in this subsection is in addition to
3 the authority to acquire rights-of-way for streets, sidewalks and
4 highways under Article 9 of Chapter 136. The provisions of this
5 subdivision (1) shall not apply to counties.
- 6 (2) Establishing, extending, enlarging, or improving any of the public
7 enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for
8 counties.
- 9 (3) Establishing, enlarging, or improving parks, playgrounds, and other
10 recreational facilities.
- 11 (4) Establishing, extending, enlarging, or improving storm sewer and
12 drainage systems and works, or sewer and septic tank lines and
13 systems.
- 14 (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or
15 library facilities.
- 16 (6) Constructing, enlarging, or improving city halls, fire stations, office
17 buildings, courthouse jails and other buildings for use by any
18 department, board, commission or agency.
- 19 (7) Establishing drainage programs and programs to prevent obstructions
20 to the natural flow of streams, creeks and natural water channels or
21 improving drainage facilities. The authority contained in this
22 subdivision is in addition to any authority contained in Chapter 156.
- 23 (8) Acquiring designated historic properties, designated as such before
24 October 1, 1989, or acquiring a designated landmark designated as
25 such on or after October 1, 1989, for which an application has been
26 made for a certificate of appropriateness for demolition, in pursuance
27 of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part
28 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is
29 appropriate.
- 30 (9) Opening, widening, extending, or improving public wharves.
- 31 (10) Engaging in or participating with other governmental entities in
32 acquiring, constructing, reconstructing, extending, or otherwise
33 building or improving beach erosion control or flood and hurricane
34 protection works, including, but not limited to, the acquisition of any
35 property that may be required as a source for beach renourishment.
- 36 (11) Establishing access for the public to public trust beaches and
37 appurtenant parking areas.

38 The board of education of any municipality or county or a combined board may
39 exercise the power of eminent domain under this Chapter for purposes authorized by
40 other statutes.

41 The power of eminent domain shall be exercised by local public condemnors under
42 the procedures of Article 3 of this chapter.

43 This subsection applies only to Carteret and Dare Counties, the Towns of Atlantic
44 Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill

1 Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island,
2 Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and
3 Wrightsville Beach, and the Village of Bald Head Island."

4 **SECTION 29.** G.S. 40A-42(a), as amended by Section 2 of S.L. 2003-282,
5 reads as rewritten:

6 "(a) (1) Standard Provision. – When a local public condemnor is acquiring
7 property by condemnation for a purpose set out in G.S. 40A-3(b)(1),
8 (4) or (7), or when a city is acquiring property for a purpose set out in
9 G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is
10 acquiring property for a purpose set out in G.S. 153A-274(1), (2) or
11 (3), or when a local board of education or any combination of local
12 boards of education is acquiring property for any purpose set forth in
13 G.S. 115C-517, or when a condemnor is acquiring property by
14 condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or
15 (13), title to the property and the right to immediate possession shall
16 vest pursuant to this subsection. Unless an action for injunctive relief
17 has been initiated, title to the property specified in the complaint,
18 together with the right to immediate possession thereof, shall vest in
19 the condemnor upon the filing of the complaint and the making of the
20 deposit in accordance with G.S. 40A-41.

21 (2) Modified Provision for Certain Localities. – When a local public
22 condemnor is acquiring property by condemnation for a purpose set
23 out in G.S. 40A-3(b1)(1), (4), (7), (10), or (11), or when a city is
24 acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3),
25 (4), (6), or (7), or when a county is acquiring property for a purpose set
26 out in G.S. 153A-274(1), (2) or (3), or when a local board of education
27 or any combination of local boards of education is acquiring property
28 for any purpose set forth in G.S. 115C-517, or when a condemnor is
29 acquiring property by condemnation as authorized by G.S.
30 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right
31 to immediate possession shall vest pursuant to this subsection. Unless
32 an action for injunctive relief has been initiated, title to the property
33 specified in the complaint, together with the right to immediate
34 possession thereof, shall vest in the condemnor upon the filing of the
35 complaint and the making of the deposit in accordance with G.S.
36 40A-41.

37 This subdivision applies only to Carteret and Dare Counties, the
38 Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald
39 Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure
40 Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle
41 Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach,
42 and Wrightsville Beach, and the Village of Bald Head Island."

43 **SECTION 30.(a)** G.S. 48-2-206(c) reads as rewritten:

1 "(c) If the biological father fails to respond within the time required, the court
2 shall enter an order that the biological father's consent is not required for the adoption.
3 A biological father who fails to respond within the time required under this section is
4 not entitled to notice under G.S. 48-2-401(c) of an adoption petition filed within three
5 months of the birth of the ~~minor~~ minor or to participate in the adoption proceeding."

6 **SECTION 30.(b)** G.S. 48-2-206(d) reads as rewritten:

7 "(d) If the biological father notifies the court within 15 days of his receipt of the
8 notice required by subsection (a) of this section that he believes his consent to the
9 adoption is required, on motion of the petitioner, the court shall hold a hearing to
10 determine whether the consent of the biological father is required. Promptly on receipt
11 of the petitioner's motion, the court shall set a date for the hearing no earlier than 60
12 days nor later than 70 days after the biological father received the notice required by
13 subsection (a) of this section and shall notify the petitioner and the biological father of
14 the date, time, and place of the hearing. The notice of hearing to the biological father
15 shall include a statement substantially similar to the following:

16 "To the biological father named above: You have told the court that you believe
17 your consent is necessary for the adoption of the child described in the notice sent to
18 you earlier. This hearing is being held to decide whether your consent is in fact
19 necessary. Before the date of the hearing, you must have taken steps under G.S.
20 48-3-601 to establish that your consent is necessary or this court will decide that your
21 consent is not necessary and the child can be adopted without it."

22 During the hearing, the court may take such evidence as necessary and enter an order
23 determining whether or not the consent of the biological father is necessary. If the court
24 determines that the consent of the biological father is not required, that individual is not
25 entitled to receive notice under G.S. 48-2-401(c) of an adoption petition filed within
26 three months of the birth of the minor or to participate in the adoption proceeding."

27 **SECTION 30.(c)** Part 2 of Article 2 of Chapter 48 of the General Statutes is
28 amended by adding the following new section to read:

29 "**§ 48-2-207. Postpetition determination of necessity of consent.**

30 (a) If any individual described in G.S. 48-2-401(c)(3) is served with notice of the
31 filing of the petition in accordance with G.S. 48-2-402 and fails to respond within the
32 time specified in the notice, the court, upon motion by the petitioner, shall enter an order
33 under G.S. 48-3-603(a)(7) that the individual's consent is not required for the adoption.

34 (b) The court shall hold a hearing to take evidence and determine whether an
35 individual's consent to an adoption is required in any of the following circumstances:

36 (1) Any individual described in G.S. 48-2-401(c)(3) who has been served
37 with notice of the filing of the petition in accordance with G.S.
38 48-2-402 notifies the court within the time specified in the notice that
39 he believes his consent to the adoption is required.

40 (2) Any individual who has not been served with the notice of the filing of
41 the petition intervenes in the adoption proceeding alleging that his or
42 her consent to the adoption is required.

43 (c) If the court determines that the consent of any individual is required, the
44 adoption cannot proceed until that individual's consent is obtained or that individual's

1 parental rights are terminated. If the individual whose consent is required did not have
2 physical custody of the minor immediately prior to the placement of the minor with the
3 prospective adoptive parents, a finding that the individual's consent is required does not
4 entitle that individual to physical custody of the minor.

5 (d) If the court determines that the consent of any individual described in G.S.
6 48-2-401(c)(3) is not required, that individual is not entitled to receive notice of, or to
7 participate in, further proceedings in the adoption."

8 **SECTION 30.(d)** G.S. 48-2-304(c) reads as rewritten:

9 "(c) A petition to adopt a minor under Article 3 of this Chapter shall also
10 ~~state:~~state all of the following:

11 (1) A description of the source of placement and the date of placement of
12 the adoptee with the ~~petitioner;~~ petitioner.

13 (2) That the provisions of the Interstate Compact on the Placement of
14 Children, Article 38 of Chapter 7B of the General Statutes, were
15 followed if the adoptee was brought into this State from another state
16 for purposes of ~~adoption.~~ adoption, or that a statement is attached
17 describing the circumstances of any noncompliance."

18 **SECTION 30.(e)** G.S. 48-2-305(7) reads as rewritten:

19 "**§ 48-2-305. Petition for adoption; additional documents.**

20 At the time the petition is filed, the petitioner shall file or cause to be filed the
21 following documents:

22 ...

23 (7) Any signed copy of the form required by the Interstate Compact on the
24 Placement of Children, Article 38 of Chapter 7B of the General
25 Statutes, authorizing a minor to come into this ~~State.~~ State, or any
26 statement required by G.S. 48-2-304(c) describing the circumstances
27 of any noncompliance.

28 ...

29 The petitioner may also file any other document necessary or helpful to the court's
30 determination."

31 **SECTION 30.(f)** G.S. 48-2-401(b) reads as rewritten:

32 "(b) In all adoptions, the petitioner shall serve notice of the filing ~~on:~~ on each of
33 the following:

34 (1) Any individual whose consent to the adoption is required but has not
35 been obtained, has been revoked in accord with this Chapter, or has
36 become void as provided in this ~~Chapter;~~ Chapter.

37 (2) The spouse of the petitioner if that spouse is required to join in the
38 petition and petitioner is requesting that the joinder requirement be
39 ~~waived;~~ waived, provided the court for cause may waive this notice
40 requirement.

41 (3) Any individual who has executed a consent or relinquishment, but who
42 the petitioner has actually been informed has filed an action to set it
43 aside for fraud or ~~duress;~~ and duress.

- 1 (4) Any other person designated by the court who can provide information
2 relevant to the proposed adoption."

3 **SECTION 30.(g)** G.S. 48-2-401(c) reads as rewritten:

4 "(c) In the adoption of a minor, the petitioner shall also serve notice of the filing
5 ~~on~~ on each of the following:

- 6 (1) A minor whose consent is dispensed with under ~~G.S.~~
7 ~~48-3-603(b)(2);~~ G.S. 48-3-603(b)(2).

- 8 (2) Any agency that placed the ~~adoptee;~~ adoptee.

- 9 (3) A man who to the actual knowledge of the petitioner claims to be or is
10 named as the biological or possible biological father of the minor, and
11 any biological or possible biological fathers who are unknown or
12 whose whereabouts are unknown, but notice need not be served upon a
13 man who has executed a consent, a relinquishment, or a notarized
14 statement denying paternity or disclaiming any interest in the minor, or
15 a man whose parental rights have been legally terminated or who has
16 been judicially determined not to be the minor's ~~parent; and~~ parent, or
17 provided the petition is filed within three months of the birth of the
18 minor, a man whose consent to the adoption has been determined not
19 to be required under G.S. 48-2-206.

- 20 (4) Any individual who the petitioner has been actually informed has legal
21 or physical custody of the minor or who has a right of visitation or
22 communication with the minor under an existing court order issued by
23 a court in this State or another state."

24 **SECTION 30.(h)** G.S. 48-2-405 reads as rewritten:

25 "**§ 48-2-405. Rights of persons entitled to notice.**

26 ~~A~~ Except as provided in G.S. 48-2-206(c), 48-2-206(d), and 48-2-207(d), a person
27 entitled to notice whose consent is not required may appear and present evidence only
28 as to whether the adoption is in the best interest of the adoptee."

29 **SECTION 31.(a)** G.S. 54B-266(1) is repealed.

30 **SECTION 31.(b)** G.S. 54C-200(1) is repealed.

31 **SECTION 32.** G.S. 58-64-33(a), as amended by Section 8 of S.L. 2003-193,
32 reads as rewritten:

33 "(a) A provider shall maintain after the opening of a facility: an operating reserve
34 equal to fifty percent (50%) of the total operating costs of the facility forecasted for the
35 12-month period following the period covered by the most recent disclosure statement
36 filed with the Department. The forecast statements as required by G.S. 58-64-20(a)(12)
37 shall serve as the basis for computing the operating reserve. In addition to total
38 operating expenses, total operating costs will include debt service, consisting of
39 principal and interest payments along with taxes and insurance on any mortgage loan or
40 other long-term financing, but will exclude depreciation, amortized expenses, and
41 extraordinary items as approved by the Commissioner. If the debt service portion is
42 accounted for by way of another reserve account, the debt service portion may be
43 excluded. If a facility maintains an occupancy level in excess of ninety percent (90%), a
44 provider shall only be required to maintain a twenty-five percent (25%) operating

1 reserve upon approval of the Commissioner, unless otherwise instructed by the
2 Commissioner. The operating reserve ~~must~~may be funded by cash, by ~~cash equivalents,~~
3 invested cash, or by investment grade securities, including bonds, stocks, U.S. Treasury
4 obligations, or obligations of U.S. government agencies."

5 **SECTION 33.(a)** G.S. 62-3(23) reads as rewritten:

6 "(23) a. "Public utility" means a person, whether organized under the
7 laws of this State or under the laws of any other state or
8 country, now or hereafter owning or operating in this State
9 equipment or facilities for:

10 ...

- 11 i. The term "public utility" shall not include the State, the Office
12 of ~~the State Controller,~~ Information Technology Services, or the
13 Microelectronics Center of North Carolina in the provision or
14 sharing of switched broadband telecommunications services
15 with non-State entities or organizations of the kind or type set
16 forth in G.S. 143B-426.39.

17"

18 **SECTION 33.(b)** G.S. 147-33.92 reads as rewritten:

19 "**§ 147-33.92. Telecommunications services for local governmental ~~units~~entities**
20 **and other entities.**

21 (a) The State Chief Information Officer shall provide cities, counties, and other
22 local governmental ~~units~~entities with access to a central telecommunications system or
23 service established under G.S. 147-33.91 for State agencies. Access shall be provided
24 on the same cost basis that applies to State agencies.

25 (b) The State Chief Information Officer shall establish switched broadband
26 telecommunications services and ~~permit~~permit, in addition to State agencies, cities,
27 counties, and other local government ~~units~~entities, the following organizations and
28 entities to share on a not-for-profit basis:

- 29 (1) Nonprofit educational institutions.
30 (2) MCNC.
31 (3) Research affiliates of MCNC for use only in connection with research
32 activities sponsored or funded, in whole or in part, by MCNC, if such
33 research activities relate to health care or education in North Carolina.
34 (4) Agencies of the United States government operating in North Carolina
35 for use only in connection with activities that relate to health care or
36 education in North Carolina.
37 (5) Hospitals, clinics, and other health care facilities for use only in
38 connection with activities that relate to health care or education in
39 North Carolina.

40 Provided, however, that sharing of the switched broadband telecommunications
41 services by State agencies with entities or organizations in the categories set forth in this
42 subsection shall not cause the State, the Office of Information Technology Services, or
43 the MCNC to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6.
44 Nor shall the State, the Office of Information Technology Services, or the MCNC

1 engage in any activities that may cause those entities to be classified as a common
2 carrier as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153(h)-
3 47 U.S.C. § 153(10). Provided further, authority to share the switched broadband
4 telecommunications services with the non-State agencies set forth in subdivisions (1)
5 through (5) of this subsection shall terminate one year from the effective date of a tariff
6 that makes the broadband services available to any customer."

7 **SECTION 34.** Article 4 of Chapter 72 of the General Statutes is repealed.

8 **SECTION 34.5.(a)** G.S. 95-138 reads as rewritten:

9 "**§ 95-138. Civil penalties.**

10 (a) ~~Any employer who willfully or repeatedly violates the requirements of this~~
11 ~~Article, any standard, rule or order promulgated pursuant to this Article, or regulations~~
12 ~~prescribed pursuant to this Article, may upon the recommendation of the Director to the~~
13 ~~Commissioner be assessed by the Commissioner a civil penalty of not more than~~
14 ~~seventy thousand dollars (\$70,000) and not less than five thousand dollars (\$5,000) for~~
15 ~~each willful violation. Any employer who has received a citation for a serious violation~~
16 ~~of the requirements of this Article or any standard, rule, or order promulgated under this~~
17 ~~Article or of any regulation prescribed pursuant to this Article, shall be assessed by the~~
18 ~~Commissioner a civil penalty of up to seven thousand dollars (\$7,000) for each serious~~
19 ~~violation. If the violation is adjudged not to be of a serious nature, then the employer~~
20 ~~may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each~~
21 ~~nonserious violation. Any employer who fails to correct a violation for which a citation~~
22 ~~has been issued under this Article within the period allowed for its correction (which~~
23 ~~period shall not begin to run until the date of the final order of the Board in the case of~~
24 ~~any appeal proceedings in this Article initiated by the employer in good faith and not~~
25 ~~solely for the delay or avoidance of penalties), may be assessed a civil penalty of not~~
26 ~~more than seven thousand dollars (\$7,000). The assessment shall be made to apply to~~
27 ~~each day during which the failure or violation continues. Any employer who violates~~
28 ~~any of the posting requirements, as prescribed under the provision[s] of this Article,~~
29 ~~shall be assessed a civil penalty of not more than seven thousand dollars (\$7,000) for the~~
30 ~~violation. The Commissioner upon recommendation of the Director, or the Board in~~
31 ~~case of an appeal, shall have authority to assess all civil penalties provided by this~~
32 ~~Article, giving due consideration to the appropriateness of the penalty with respect to~~
33 ~~the following factors:~~

- 34 (1) ~~Size of the business of the employer being charged,~~
35 (2) ~~The gravity of the violation,~~
36 (3) ~~The good faith of the employer, and~~
37 (4) ~~The record of previous violations; provided that for purposes of~~
38 ~~determining repeat violations, only the record within the previous three~~
39 ~~years is applicable.~~

40 ~~The Commissioner shall adopt uniform standards which the Commissioner, the~~
41 ~~Board, and the hearing examiner shall apply when considering the four factors for~~
42 ~~determining appropriateness of the penalty. The report of the hearing examiner and the~~
43 ~~report, decision, or determination of the Board on appeal shall specify the standards~~

1 ~~applied in determining the reduction or affirmation of the penalty assessed by the~~
2 ~~Commissioner.~~

3 ~~(b) The clear proceeds of all civil penalties and interest recovered by the~~
4 ~~Commissioner, together with the costs thereof, shall be remitted to the Civil Penalty and~~
5 ~~Forfeiture Fund in accordance with G.S. 115C-457.2.~~

6 (a) The Commissioner, upon recommendation of the Director, may assess
7 penalties against any employer who violates the requirements of this Article, or any
8 standard, rule, or order promulgated pursuant to this Article, as follows:

9 (1) A minimum penalty of five thousand dollars (\$5,000) to a maximum
10 penalty of seventy thousand dollars (\$70,000) for each willful or repeat
11 violation.

12 (2) A maximum penalty of seven thousand dollars (\$7,000) for each
13 nonserious or serious violation.

14 (3) A maximum penalty of seven thousand dollars (\$7,000) for each day
15 that an employer fails to correct and abate a violation, within the
16 period allowed for its correction and abatement which period shall not
17 begin to run until the date of the final Order of the Board in the case of
18 any appeal proceedings in this Article initiated by the employer in
19 good faith and not solely for the delay of avoidance of penalties.

20 (4) A maximum penalty of seven thousand dollars (\$7,000) for violating
21 the posting requirements, as required under the provisions of this
22 Article.

23 (b) The Commissioner shall adopt uniform standards that the Commissioner, the
24 Board, and the hearing examiner shall apply when determining appropriateness of the
25 penalty. The following factors shall be used in determining whether a penalty is
26 appropriate:

27 (1) Size of the business of the employer being charged.

28 (2) The gravity of the violation.

29 (3) The good faith of the employer.

30 (4) The record of previous violations; provided that for purposes of
31 determining repeat violations, only the record within the previous three
32 years is applicable.

33 The report of the hearing examiner and the report, decision, or determination of the
34 Board on appeal shall specify the standards applied in determining the reduction or
35 affirmation of the penalty assessed by the Commissioner.

36 (c) The clear proceeds of all civil penalties and interest recovered by the
37 Commissioner, together with the costs thereof, shall be remitted to the Civil Penalty and
38 Forfeiture Fund in accordance with G.S. 115C-457.2."

39 **SECTION 34.5.(b)** This section is effective January 1, 2004, and applies to
40 violations occurring on or after that date.

41 **SECTION 35.** G.S. 105-129.6(b) reads as rewritten:

42 "(b) Reports. – The Department of Revenue shall publish by ~~March 1~~April 1 of
43 each year the following information itemized by credit and by taxpayer for the
44 12-month period ending the preceding December 31:

1 ..."

2 **SECTION 35.5.** G.S. 108A-25 is amended by adding a new subsection to
3 read:

4 "(d) Each Community Care network organization designated by the Department of
5 Health and Human Services as responsible for coordinating the health care of
6 individuals eligible for medical assistance in a county is hereby deemed to be a public
7 agency that is a local unit of government for the sole and limited purpose of all grants-
8 in-aid, public assistance grant programs and other funding programs."

9 **SECTION 36.** G.S. 108A-70.21(d), as amended by Section 10.29(a) of S.L.
10 2003-284, reads as rewritten:

11 "(d) Cost-Sharing. – There shall be no deductibles, copayments, or other
12 cost-sharing charges for families covered under the Program whose family income is at
13 or below one hundred fifty percent (150%) of the federal poverty level, ~~except that fees~~
14 ~~for outpatient prescription drugs are applicable and shall be one dollar (\$1.00) for each~~
15 ~~outpatient generic prescription drug and for each outpatient brand name prescription~~
16 ~~drug for which there is no generic substitution available. The fee for each outpatient~~
17 ~~brand name prescription drug for which there is a generic substitution available is three~~
18 ~~dollars (\$3.00).~~ level. Families covered under the Program whose family income is
19 above one hundred fifty percent (150%) of the federal poverty level shall be responsible
20 for copayments to providers as follows:

- 21 (1) Five dollars (\$5.00) per child for each visit to a provider, except that
22 there shall be no copayment required for well-baby, well-child, or
23 age-appropriate immunization services;
- 24 (2) Five dollars (\$5.00) per child for each outpatient hospital visit;
- 25 (3) A six dollar (\$6.00) fee for each outpatient prescription drug
26 purchased; one dollar (\$1.00) fee for each outpatient generic
27 prescription drug and for each outpatient brand name prescription drug
28 for which there is no generic substitution available. The fee for each
29 outpatient brand name prescription drug for which there is a generic
30 substitution available is ten dollars (\$10.00).
- 31 (4) Twenty dollars (\$20.00) for each emergency room visit unless:
32 a. The child is admitted to the hospital, or
33 b. No other reasonable care was available as determined by the
34 Claims Processing Contractor of the North Carolina Teachers'
35 and State Employees' Comprehensive Major Medical Plan.

36 Copayments required under this subsection for prescription drugs apply only to
37 prescription drugs prescribed on an outpatient basis."

38 **SECTION 37.(a)** G.S. 110-90(1a), as enacted by Section 34.12(a) of S.L.
39 2003-284, reads as rewritten:

40 "The Secretary shall have the following powers and duties under the policies and
41 rules of the Commission:

42 ...

- 43 (1a) ~~To establish~~ The Secretary shall charge child care centers a
44 nonrefundable annual license-monitoring fee for the licensing of child

1 ~~care centers. fee.~~ The fee does not apply to a religious-sponsored child
 2 care center operated pursuant to a letter of compliance. The amount of
 3 the fee ~~may not exceed~~shall be the amount listed in this subdivision.

4 Capacity of Center	Maximum-Fee
5 12 or fewer children	\$ 35.00
6 13-50 children	\$125.00
7 51-100 children	\$250.00
8 101 or more children	\$400.00

9 Failure to pay the license monitoring fee shall result in suspension of a
 10 license unless the fee is paid as governed by G.S. 150B-3.

11 ..."

12 **SECTION 37.(b)** Section 5.1(p) of S.L. 2003-284, reads as rewritten:

13 "**SECTION 5.1.(p)** The sum of ~~one million six hundred thousand dollars~~
 14 ~~(\$1,600,000)~~two million five hundred fifty thousand dollars (\$2,550,000) appropriated
 15 in this section in the TANF Block Grant to the Department of Health and Human
 16 Services, Division of Social Services, for fiscal year 2003-2004 shall be used to support
 17 various child welfare training projects as follows:

- 18 (1) Provide a regional training center in southeastern North Carolina.
- 19 (2) Support the Masters Degree in Social Work/Baccalaureate Degree in
 20 Social Work Collaborative.
- 21 (3) Provide training for residential child care facilities.
- 22 (4) Provide for various other child welfare training initiatives."

23 **SECTION 37.(c)** Section 5.1(a) of S.L. 2003-284 is amended by deleting the
 24 language 'Division of Social Services – Child Caring Agencies' in item 17 of the
 25 SOCIAL SERVICES BLOCK GRANT and substituting 'Transfer from TANF Block
 26 Grant for Division of Social Services – Child Caring Agencies' in item 17 of the
 27 SOCIAL SERVICES BLOCK GRANT.

28 **SECTION 38.** G.S. 110-139.2(b1), as enacted by Section 4 of S.L.
 29 2003-288, reads as rewritten:

30 "(b1) The Department of Health and Human Services Child Support Enforcement
 31 Agency may notify any financial institution doing business in this State that an obligor
 32 who maintains an identified account with the financial institution has a delinquent child
 33 support obligation that may be eligible for levy on the account in an amount that
 34 satisfies some or all of the delinquency. In order to be able to attach a lien on and levy
 35 an obligor's account, the obligor's child support obligation shall be in arrears in an
 36 amount not less than the amount of support owed for six months or one thousand dollars
 37 (\$1,000), whichever is less.

38 Upon certification of the arrears amount in accordance with G.S. 44-86(c), the Child
 39 Support Agency shall serve or cause to be served upon the obligor and the financial
 40 institution a notice as provided by this subsection. The notice shall be served in any
 41 manner provided in Rule 4 of the North Carolina Rules of Civil ~~Procedure and~~
 42 Procedure, except that a notice may be served on a financial institution in any other
 43 manner that the financial institution has agreed to in writing at any time prior to the time
 44 the notice is sent. The notice shall include the name of the obligor, the financial

1 institution where the account is located, the account number of the account to be levied
2 to satisfy the lien, the certified arrears amount, information for the obligor on how to
3 remove the lien or contest the lien in order to avoid the levy, and a copy of the
4 applicable law, G.S. 110-139.2. Upon service of the notice, the financial institution shall
5 proceed in the following manner:

- 6 (1) Immediately attach a lien to the identified account.
- 7 (2) Notify the Child Support Agency of the balance of the account and
8 date of the lien or that the account does not meet the requirement for
9 levy under this subsection.

10 In order for an obligor to contest the lien, within 10 days after the obligor is served
11 with the notice, the obligor shall send written notice of the basis of the obligor's contest
12 to the Child Support Agency and shall request a hearing before the district court in the
13 county where the support order was entered. The lien may be contested only on the
14 basis that the arrearage is an amount less than the amount of support owed for six
15 months, or is less than one thousand dollars (\$1,000), or the obligor is not the person
16 subject to the court order of support. The district court may assess court costs against
17 the nonprevailing party. If no response is received from the obligor within 10 days of
18 the service of the notice, the Child Support Agency shall notify the financial institution
19 to submit payment, up to the total amount of the child support arrears, if available. This
20 amount is to be applied to the debt of the delinquent obligor.

21 A financial institution shall not be liable to any person for complying in good faith
22 with this subsection.

23 This levy procedure is to be available for direct use by all states' child support
24 programs to financial institutions in this State."

25 **SECTION 39.** G.S. 114-19.12, as enacted by Section 4 of S.L. 2003-214 is
26 recodified as G.S. 114-19.14, to avoid a conflict with S.L. 2003-182.

27 **SECTION 40.** G.S. 115C-84.2(d) reads as rewritten:

28 "(d) Opening and Closing Dates. – Local boards of education shall determine the
29 dates of opening and closing the public schools under subdivision (a)(1) of this section.
30 A local board may revise the scheduled closing date if necessary in order to comply
31 with the minimum requirements for instructional days or instructional time. Different
32 opening and closing dates may be fixed for schools in the same administrative unit.

33 ~~Local boards and individual schools shall give teachers at least 14 calendar days'~~
34 ~~notice before requiring a teacher to work instead of taking vacation leave on days~~
35 ~~scheduled in accordance with subdivision (4) or (5) of this subsection. A teacher may~~
36 ~~elect to waive this notice requirement for one or more such days."~~

37 **SECTION 41.(a)** G.S. 115C-238.29B(a) reads as rewritten:

38 "(a) Any person, group of persons, or nonprofit ~~corporation~~ corporation, including
39 a local board of education, seeking to establish a charter school may apply to establish a
40 charter school. If the applicant seeks to convert a public school to a charter school, the
41 application shall include a statement signed by a majority of the teachers and
42 instructional support personnel currently employed at the school indicating that they
43 favor the conversion and evidence that a significant number of parents of children
44 enrolled in the school favor conversion."

1 **SECTION 41.(b)** G.S. 115C-238.29E reads as rewritten:

2 "**§ 115C-238.29E. Charter school operation.**

3 (a) A charter school that is approved by the State shall be a public school within
4 the local school administrative unit in which it is located. It shall be accountable to the
5 local board of education if it applied for and received preliminary approval from that
6 local board for purposes of ensuring compliance with applicable laws and the provisions
7 of its ~~charter~~.charter or if the local board of education was the applicant for the charter.

8 All other charter schools shall be accountable to the State Board for ensuring
9 compliance with applicable laws and the provisions of their charters, except that any of
10 these charter schools may agree to be accountable to the local board of the school
11 administrative unit in which the charter school is located rather than to the State Board.

12 (b) A charter school shall be operated by a private nonprofit corporation that
13 shall have received federal tax-exempt status no later than 24 months following final
14 approval of the ~~application~~.application unless a local board of education applied for and
15 was granted a charter for the conversion of an existing public school or for the creation
16 of a new charter school. In such a case, a charter school shall be operated by the local
17 board of education or by a board of directors appointed by the local board of education.

18 (c) A charter school shall operate under the written charter signed by the entity to
19 which it is accountable under subsection (a) of this section and the applicant. A charter
20 school is not required to enter into any other contract. The charter shall incorporate the
21 information provided in the application, as modified during the charter approval
22 process, and any terms and conditions imposed on the charter school by the State Board
23 of Education. No other terms may be imposed on the charter school as a condition for
24 receipt of local funds.

25 (d) The board of directors of the charter school shall decide matters related to the
26 operation of the school, including budgeting, curriculum, and operating procedures.

27 (e) A charter school's specific location shall not be prescribed or limited by a
28 local board or other authority except a zoning ~~authority~~.authority unless the local board
29 of education applied for and was granted the charter for the conversion of a public
30 school or the creation of a new charter school. The school may lease space from a local
31 board of education or as is otherwise lawful in the local school administrative unit in
32 which the charter school is located. If a charter school leases space from a sectarian
33 organization, the charter school classes and students shall be physically separated from
34 any parochial students, and there shall be no religious artifacts, symbols, iconography,
35 or materials on display in the charter school's entrance, classrooms, or hallways.
36 Furthermore, if a charter school leases space from a sectarian organization, the charter
37 school shall not use the name of that organization in the name of the charter school.

38 At the request of the charter school, the local board of education of the local school
39 administrative unit in which the charter school will be located shall lease any available
40 building or land to the charter school unless the board demonstrates that the lease is not
41 economically or practically feasible or that the local board does not have adequate
42 classroom space to meet its enrollment needs. Notwithstanding any other law, a local
43 board of education may provide a school facility to a charter school free of charge;

1 however, the charter school is responsible for the maintenance of and insurance for the
2 school facility.

3 (f) Except as provided in this Part and pursuant to the provisions of its charter, a
4 charter school is exempt from statutes and rules applicable to a local board of education
5 or local school administrative unit."

6 **SECTION 41.(c)** This section applies only to the Winston-Salem/Forsyth
7 School System.

8 **SECTION 42.(a)** G.S. 115C-238.29D(d) reads as rewritten:

9 "(d) The State Board of Education may grant the initial charter for a period not to
10 exceed ~~five~~10 years and may renew the charter upon the request of the chartering entity
11 for subsequent periods not to exceed ~~five~~10 years each. The State Board of Education
12 shall review the operations of each charter school at least once every five years to
13 ensure that the school is meeting the expected academic, financial, and governance
14 standards.

15 A material revision of the provisions of a charter application shall be made only
16 upon the approval of the State Board of Education.

17 It shall not be considered a material revision of a charter application and shall not
18 require the prior approval of the State Board for a charter school to increase its
19 enrollment during the charter school's second year of operation and annually thereafter
20 (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in
21 accordance with planned growth as authorized in the charter. Other enrollment growth
22 shall be considered a material revision of the charter application, and the State Board
23 may approve such additional enrollment growth of greater than ten percent (10%) only
24 if the State Board finds that:

- 25 (1) The actual enrollment of the charter school is within ten percent (10%)
26 of its maximum authorized enrollment;
- 27 (2) The charter school has commitments for ninety percent (90%) of the
28 requested maximum growth;
- 29 (3) The board of education of the local school administrative unit in which
30 the charter school is located has had an opportunity to be heard by the
31 State Board of Education on any adverse impact the proposed growth
32 would have on the unit's ability to provide a sound basic education to
33 its students;
- 34 (4) The charter school is not currently identified as low-performing;
- 35 (5) The charter school meets generally accepted standards of fiscal
36 management; and
- 37 (6) It is otherwise appropriate to approve the enrollment growth."

38 **SECTION 42.(b)** G.S. 115C-238.29F(e)(1) reads as rewritten:

- 39 "(1) An employee of a charter school is not an employee of the local school
40 administrative unit in which the charter school is located. The charter
41 school's board of directors shall employ and contract with necessary
42 teachers to perform the particular service for which they are employed
43 in the school; at least seventy-five percent (75%) of these teachers in
44 grades kindergarten through five, at least fifty percent (50%) of these

1 teachers in grades six through eight, and at least fifty percent (50%) of
2 these teachers in grades nine through 12 shall hold teacher certificates.
3 All teachers in grades six through 12 who are teaching in the core
4 subject areas of mathematics, science, social studies, and language arts
5 shall be college graduates.

6 The board also may employ necessary employees who are not
7 required to hold teacher certificates to perform duties other than
8 teaching and may contract for other services. The board may discharge
9 teachers and noncertificated employees."

10 **SECTION 42.(c)** This section is effective when it becomes law. Subsection
11 (a) of this section applies to charters granted or renewed on or after that date.
12 Subsection (b) of this section applies to persons employed by charter schools for the
13 2003-2004 and subsequent school years.

14 **SECTION 43.** G.S. 115C-437 reads as rewritten:

15 "**§ 115C-437. Allocation of revenues to the local school administrative unit by the**
16 **county.**

17 (a) Revenues accruing to the local school administrative unit by virtue of Article
18 IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school
19 administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511 shall be
20 remitted to the school finance officer by the officer having custody thereof within 10
21 days after the close of the calendar month in which the revenues were received or
22 collected. The clear proceeds of all penalties and forfeitures and of all fines collected for
23 any breach of the penal laws of the State, as referred to in Article IX, Sec. 7 of the
24 Constitution, shall include the full amount of all penalties, forfeitures or fines collected
25 under authority conferred by the State, diminished only by the actual costs of collection,
26 not to exceed ten percent (10%) of the amount ~~collected.~~ collected, except as provided
27 in subsection (b) of this section.

28 Revenues appropriated to the local school administrative unit by the board of county
29 commissioners from general county revenues shall be made available to the school
30 finance officer by such procedures as may be mutually agreeable to the board of
31 education and the board of county commissioners, but if no such agreement is reached,
32 these funds shall be remitted to the school finance officer by the county finance officer
33 in monthly installments sufficient to meet its lawful expenditures from the county
34 appropriation until the county appropriation to the local school administrative unit is
35 exhausted. Each installment shall be paid not later than 10 days after the close of each
36 calendar month. When revenue has been appropriated to the local school administrative
37 unit by the board of county commissioners from funds which carry specific restrictions
38 binding upon the county as recipient, the board of commissioners must inform the local
39 school administrative unit in writing of those restrictions.

40 (b) The clear proceeds of all penalties, forfeitures, and fines of The University of
41 North Carolina shall be the full amount collected by The University of North Carolina,
42 diminished only by the direct, actual costs of assessing and collecting the penalties,
43 forfeitures, and fines. Those costs shall be itemized in an accounting to be provided
44 when the proceeds are remitted by The University of North Carolina."

1 **SECTION 44.** Part 3 of Article 1 of Chapter 116 of the General Statutes is
2 amended by adding the following new section to read:

3 **"§ 116-40.7 Internal auditors.**

4 (a) Internal auditors within The University of North Carolina and its constituent
5 institutions shall provide independent reviews and analyses of various functions and
6 programs within The University of North Carolina that will provide management
7 information to promote accountability, integrity, and efficiency within The University
8 of North Carolina.

9 (b) An internal auditor shall have access to any records, data, or other
10 information of The University of North Carolina or the relevant constituent institution
11 that the internal auditor believes necessary to carry out the internal auditor's duties.

12 (c) An internal auditor shall maintain, for 10 years, a complete file of all audit
13 reports and reports of other examinations, investigations, surveys, and reviews issued
14 under the internal auditor's authority. Audit work papers and other evidence and related
15 supportive material directly pertaining to the work of that auditor's office shall be
16 retained in accordance with Chapter 132 of the General Statutes. To promote
17 cooperation and avoid unnecessary duplication of audit effort, audit work papers related
18 to issued audit reports shall be, unless otherwise prohibited by law, made available for
19 inspection by duly authorized representatives of the State and federal governments in
20 connection with some matter officially before them. Except as otherwise provided in
21 this subsection, or upon subpoena issued by a duly authorized court or court official,
22 audit work papers shall be kept confidential and shall not be open to examination or
23 inspection under G.S. 132-6. Audit reports shall be public records to the extent that they
24 do not include information that, under State laws, is confidential and exempt from
25 Chapter 132 of the General Statutes or would compromise the security systems of The
26 University of North Carolina."

27 **SECTION 45.** G.S. 116-238.1, as enacted by S.L. 2003-284, is amended by
28 adding a new subsection to read:

29 (f) Notwithstanding any other provision of this section, no tuition grant awarded
30 to a student under this section shall exceed the cost of tuition of the constituent
31 institution at which the student is enrolled. If a student, who is eligible for a tuition grant
32 under this subsection, also receives a scholarship or other grant covering the cost of
33 tuition at the constituent institution for which the tuition grant is awarded, then the
34 amount of the tuition grant shall be reduced by an appropriate amount determined by the
35 State Education Assistance Authority. The State Education Assistance Authority shall
36 reduce the amount of the tuition grant so that the sum of all grants and scholarship aid
37 covering the cost of tuition received by the student, including the tuition grant under this
38 section, shall not exceed the cost of tuition for the constituent institution at which the
39 student is enrolled."

40 **SECTION 46.** G.S. 116-243, as rewritten by Section 1 of S.L. 2003-102,
41 reads as rewritten:

42 **"§ 116-243. Board of directors established; appointments.**

43 A board of directors to govern the operation of the Arboretum is established, to be
44 appointed as follows:

- 1 (1) Two by the Governor, initially, one for a two-year term, and one for a
2 four-year term. Successors shall be appointed for four-year
3 ~~terms;~~terms.
- 4 (2) Two by the General Assembly, in accordance with G.S. 120-121, upon
5 the recommendation of the President Pro Tempore of the Senate,
6 initially, one for a two-year term, and one for a four-year term.
7 Successors shall be appointed for four-year ~~terms;~~terms.
- 8 (3) Two by the General Assembly, in accordance with G.S. 120-121, upon
9 the recommendation of the Speaker of the House of Representatives,
10 initially, one for a two-year term, and one for a four-year term.
11 Successors shall be appointed for four-year ~~terms;~~terms.
- 12 (4) The President of The University of North Carolina or ~~his~~the
13 President's designee to serve ex ~~officio;~~officio.
- 14 (5) The chancellors, chief executive officers, or their designees of the
15 following institutions of higher education: North Carolina State
16 University, Western Carolina University, The University of North
17 Carolina at Asheville, Mars Hill College, and Warren Wilson College,
18 to serve ex ~~officio;~~officio.
- 19 (6) The President of Western North Carolina Arboretum, Inc., to serve ex
20 ~~officio;~~officio.
- 21 (7) Six by the Board of Governors of The University of North Carolina,
22 initially, three for one-year terms, and three for three-year terms.
23 Successors shall be appointed for four-year terms. One shall be an
24 active grower of nursery stock, and one other shall represent the State's
25 garden ~~clubs;~~clubs.
- 26 (8) The executive director of the Arboretum and the Executive Vice
27 President of Western North Carolina Development Association shall
28 serve ex officio as nonvoting members of the board of directors.

29 All appointed members may serve two full four-year terms following the initial
30 appointment and then may not be reappointed until they have been absent for at least
31 one year. Members serve until their successors have been appointed. Appointees to fill
32 vacancies serve for the remainder of the unexpired term. Vacancies in appointments
33 made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial
34 terms begin July 1, 1986.

35 The chairman of the board of directors shall be elected biennially by majority vote of
36 the directors.

37 The executive director of the Arboretum shall report to the board of directors."

38 **SECTION 46.5.** Article 1 of Chapter 120 of the General Statutes is amended
39 by adding a new section to read:

40 "**§ 120-2.2A. Venue in redistricting cases.**

41 Venue in any action concerning any act of the General Assembly districting,
42 redistricting, or apportioning any of the North Carolina House of Representatives, the
43 North Carolina Senate, or North Carolina's districts for electing members of the United

1 States House of Representatives, lies exclusively with the senior resident judge of Wake
2 County Superior Court. This section applies regardless of when the case was filed."

3 **SECTION 47.(a)** The title of Article 6 of Chapter 120 of the General
4 Statutes reads as rewritten:

5 "Article 6.

6 ~~Acts and Journals.~~ Acts, Journals, and Reports to the General Assembly."

7 **SECTION 47.(b)** Article 6 of Chapter 120 of the General Statutes is
8 amended by adding the following new section to read:

9 **"§ 120-29.5. State agency reports to the General Assembly.**

10 Whenever a report is directed by law or resolution to be made to the General
11 Assembly, the State agency preparing the report shall deliver one copy of the report to
12 each of the following officers: the Speaker of the House of Representatives, the
13 President Pro Tempore of the Senate, the House Principal Clerk, and the Senate
14 Principal Clerk; and two copies of the report to the Legislative Library. The State
15 agency is encouraged to inform members of the General Assembly that an electronic
16 copy is available. This section does not affect any responsibilities for depositing
17 documents with the State Library or the State Publications Clearinghouse under Chapter
18 125 of the General Statutes."

19 **SECTION 47.(c)** This section becomes effective October 1, 2003.

20 **SECTION 48.(a)** G.S. 120-47.2(d) reads as rewritten:

21 "(d) Within 20 days after the convening of each session of the General Assembly,
22 the Secretary of State shall furnish each member of the General Assembly and the State
23 Legislative Library a list of all persons who have registered as lobbyists and whom they
24 represent. A supplemental list shall be furnished periodically each 20 days thereafter as
25 the session progresses."

26 **SECTION 48.(b)** G.S. 143-47.7(a) reads as rewritten:

27 "(a) Within 60 days after acceptance of appointment by a person appointed to
28 public office, the appointing authority shall file written notice of such appointment with
29 the Governor, the Secretary of State, the ~~State~~-Legislative Library, the State Library,
30 and the State Controller. For the purposes of this section, a copy of the letter from the
31 appointing authority or a copy of the properly executed Commission of Appointment
32 shall be sufficient to be filed if such copy contains the information required in
33 subsection (b) of this section."

34 **SECTION 48.(c)** G.S. 147-16.2 reads as rewritten:

35 **"§ 147-16.2. Duration of boards and councils created by executive officials;**
36 **extensions.**

37 (a) Any executive order of the Governor that creates a board, committee, council,
38 or commission expires two years after the effective date of the executive order, unless
39 the Governor specifies an expiration date in the order; provided, however, that any such
40 executive order that was in effect on July 1, 1983, expires on June 30, 1985, unless the
41 Governor specified a different expiration date in any such order. The Governor may
42 extend any such executive order before it expires for additional periods of up to two
43 years by doing so in writing; copies of the writing shall be filed by the Governor with
44 the Secretary of State and the ~~State~~-Legislative Library.

1 (b) Any other State board, committee, council, or commission created by the
2 Governor or by any other State elective officer specified in Article III of the North
3 Carolina Constitution expires two years after it was created; provided, however, that any
4 such board, committee, council, or commission existing as of July 1, 1984, expires on
5 June 30, 1985, unless it was due to expire on an earlier date. The elective officer
6 creating any such board, committee, council, or commission may extend the board,
7 committee, council, or commission before it expires for additional periods of up to two
8 years by doing so in writing; copies of the writing shall be filed by the elective officer
9 with the Secretary of State and the State-Legislative Library.

10 (c) Any State board, committee, council, or commission created by any official
11 in the executive branch of State government, other than by those officials specified in
12 subsections (a) and ~~(b)~~, (b) of this section, expires two years after it was created;
13 provided, however, that any board, committee, council, or commission existing as of
14 July 1, 1984, expires on June 30, 1985, unless it was due to expire on an earlier date.
15 The Governor may extend any such board, committee, council, or commission before it
16 expires for additional periods of up to two years by executive order; copies of the
17 executive order shall be filed by the Governor with the Secretary of State and the State
18 Legislative Library.

19 The words, "official in the executive branch of State government," as used in this
20 section, do not include officials of counties, cities, towns, villages, other municipal
21 corporations or political subdivisions of the State or any agencies of such subdivision,
22 or local boards of education, other local public districts, units or bodies of any kind, or
23 community colleges as defined in G.S. 115D- 2(2), or private corporations created by
24 act of the General Assembly.

25 (d) Any elective officer specified in subsection (b) of this section and any other
26 official in the executive branch of State government who creates a board, committee,
27 council, or commission shall do so in writing and shall file copies of the writing with
28 the Secretary of State and the State-Legislative Library."

29 **SECTION 49.** G.S. 121-4(16) is repealed.

30 **SECTION 49.5.** G.S. 126-3(b) is amended by adding a new subdivision to
31 read:

32 "**§ 126-3. Office of State Personnel established and responsibilities outlined;**
33 **administration and supervision; appointment, compensation and tenure**
34 **of Director.**

35 ...

36 (b) The Office shall be responsible for the following activities, and such other
37 activities as specified in this Chapter:

38 ...

39 (10) The Office may adopt policies and procedures, as approved by the
40 Commission, concerning the conduct of demonstration projects.

41 a. The purposes of demonstration projects are:

42 1. To determine if the potential human resources program
43 would be of benefit to State government;

- 1 2 To prevent the costly implementation of untested human
2 resources programs on a statewide basis;
3 3. To measure the benefits of potential human resources
4 programs versus program costs; and
5 4. To test and modify program guidelines prior to the
6 adoption of policies and procedures governing a
7 statewide program.
8 b. Demonstration projects shall have the following characteristics:
9 1. Specific goals and objectives;
10 2. An analysis, at the end of the project, of the estimated
11 costs/benefits of the project;
12 3. Measurement criteria so that achievement of the goals
13 and objectives can be accurately measured; and
14 4. Specific beginning and ending dates.
15 c. The Office, with the approval of the Commission, may operate
16 demonstration projects initiated by the Office, as well as
17 approve projects proposed and initiated by the various agencies,
18 departments, institutions, and universities either singly or
19 jointly. The Commission and Office shall not approve more
20 than a combined total of 10 demonstration projects in any fiscal
21 year. Demonstration projects may be proposed in any human
22 resources area. The Office shall report to the Joint Legislative
23 Commission on Governmental Operations on demonstration
24 projects prior to implementation.
25 d. With concurrence from the Office of State Budget and
26 Management, agencies, departments, institutions, and
27 universities shall have the flexibility to use any allowable and
28 available funds to operate demonstration projects.
29 e. Upon the completion of a demonstration project, the Office or
30 the participating agencies, departments, institutions, and
31 universities shall submit a report to the Commission that
32 includes an analysis of both the costs and the benefits of the
33 program, a program evaluation including all measures identified
34 in the program design proposal, and recommendations based on
35 the results of the demonstration project.
36 f. Upon termination of a demonstration project, employee salaries
37 may be adjusted to reflect any legislative increases, and any
38 other adverse employment impact caused by employee
39 participation in the demonstration project shall be rectified.
40 g. The Office, with the approval of the Commission, may propose,
41 through the rule-making process or modifications to this
42 Chapter, policies and procedures based on a successful
43 demonstration project."

44 **SECTION 50.(a)** G.S. 131E-155 reads as rewritten:

1 **"§ 131E-155. Definitions.**

2 As used in this Article, unless otherwise specified:

3 ...

4 (7) "Emergency medical services personnel" means all the personnel
5 defined in subdivisions (5), ~~(7a)~~, (8), (9), (10), (11), (12), (13), (14),
6 and (15) of this section.

7 (7a) "Emergency medical services instructor" means an individual who has
8 completed educational requirements approved by the Department and
9 has been credentialed as an emergency medical services instructor by
10 the Department.

11 (8) "Emergency medical services-nurse practitioner" means a registered
12 nurse who is licensed to practice nursing in North Carolina and
13 approved to perform medical acts by the North Carolina Medical
14 Board and the North Carolina Board of Nursing and credentialed by
15 the Office of Emergency Medical Services to issue instructions to ~~ALS~~
16 ~~professionals~~ EMS personnel in accordance with protocols approved
17 by the ~~sponsor hospital~~ EMS system and under the direction of the
18 medical director.

19 (9) "Emergency medical services-physician assistant" means a physician
20 assistant who has been licensed by the North Carolina Medical Board
21 and approved by the Office of Emergency Medical Services to issue
22 instructions to ~~ALS professionals~~ EMS personnel in accordance with
23 protocols approved by the ~~sponsor hospital~~ EMS system and under the
24 direction of the medical director.

25 ...

26 (16a) "Emergency Medical Services Peer Review Committee" means a panel
27 composed of EMS program representatives to be responsible for
28 analyzing patient care data and outcome measures to evaluate the
29 ongoing quality of patient care, system performance, and medical
30 direction within the EMS system. The committee membership shall
31 include, but not be limited to, physicians, nurses, EMS personnel,
32 medical facility personnel, and county government officials. Review of
33 medical records by the EMS Peer Review Committee is confidential
34 and protected under G.S. 143-518. An EMS Peer Review Committee,
35 its members, proceedings, records, and materials produced and
36 materials considered shall be afforded the same protections afforded
37 medical review committees, their members, proceedings, records, and
38 materials under G.S. 131E-95.

39 ..."

40 **SECTION 50.(b)** G.S. 131E-159 reads as rewritten:

41 **"§ 131E-159. Credentialing requirements.**

42 (a) ~~An individual seeking credentials as an emergency medical technician,~~
43 ~~emergency medical technician defibrillation, emergency medical~~
44 ~~technician intermediate, emergency medical technician paramedic, mobile intensive~~

1 ~~care nurse, emergency medical services physician assistant, or emergency medical~~
2 ~~services nurse practitioner medical responder~~ Individuals seeking credentials as EMS
3 personnel shall apply to the Department using forms prescribed by that agency. The
4 Department's representatives shall examine the applicant by either written, practical, or
5 written and practical examination. The Department shall issue appropriate credentials to
6 the applicant who meets all the requirements set forth in this Article and the rules
7 adopted for this Article and who successfully completes the examinations required for
8 credentialing. ~~Emergency medical technician, medical responder, emergency medical~~
9 ~~dispatcher, emergency medical technician defibrillation, emergency medical~~
10 ~~technician intermediate, emergency medical technician paramedic, mobile intensive~~
11 ~~care nurse, emergency medical services physician assistant, and emergency medical~~
12 ~~services nurse practitioner~~ EMS personnel credentials shall be valid for a period not to
13 exceed four years and may be renewed if the holder meets the requirements set forth in
14 the rules of the Commission. The Department is authorized to revoke or suspend these
15 credentials at any time it determines that the holder no longer meets the qualifications
16 prescribed.

17 (b) The Commission shall adopt rules setting forth the qualifications required for
18 credentialing of ~~medical responders, emergency medical technicians, emergency~~
19 ~~medical technician defibrillation, emergency medical technician intermediate,~~
20 ~~emergency medical technician paramedic, emergency medical dispatcher, mobile~~
21 ~~intensive care nurse, emergency medical services physician assistant, and emergency~~
22 ~~medical services nurse practitioner~~ EMS personnel.

23 (c) ~~An individual currently credentialed as an emergency medical technician,~~
24 ~~emergency medical technician defibrillation, emergency medical~~
25 ~~technician intermediate, and emergency medical technician paramedic~~ EMS personnel
26 currently credentialed by the National Registry of Emergency Medical Technicians or
27 by another state where the education/credentialing requirements have been approved for
28 legal recognition by the Department of Health and Human Services, in accordance with
29 rules promulgated by the Medical Care Commission, and who is either currently
30 residing in North Carolina or affiliated with a permitted EMS provider offering service
31 within North Carolina, may be eligible for credentialing as an emergency medical
32 technician without examination. This credentialing shall be valid for a period not to
33 exceed the length of the ~~emergency medical technician defibrillation, emergency~~
34 ~~medical technician intermediate, and emergency medical technician paramedic~~
35 applicant's original credentialing or four years, whichever is less.

36 (d) An individual currently credentialed as an emergency medical dispatcher by a
37 national credentialing agency, or by another state where the education/credentialing
38 requirements have been approved for legal recognition by the Department of Health and
39 Human Services, in accordance with rules issued by the Medical Care Commission, and
40 who is either currently residing in North Carolina or affiliated with an emergency
41 medical dispatcher program approved by the Department of Health and Human Services
42 offering service within North Carolina, may be eligible for credentialing as an
43 emergency medical dispatcher without examination. This credentialing shall be valid for

1 a period not to exceed the length of the applicant's original credentialing or four years,
2 whichever is less.

3 (e) Duly authorized representatives of the Department may issue temporary
4 credentials with or without examination upon finding that this action will be in the
5 public interest. Temporary credentials shall be valid for a period not exceeding 90 days.

6 (f) The Department may deny, suspend, amend, or revoke the credentials of a
7 ~~medical responder, emergency medical technician, emergency medical~~
8 ~~technician-defibrillation, emergency medical technician-intermediate, emergency~~
9 ~~medical technician-paramedic, emergency medical dispatcher, emergency medical~~
10 ~~services-physician assistant, emergency medical services nurse-practitioner, or mobile~~
11 ~~intensive care nurse-EMS personnel~~ in any case in which the Department finds that
12 there has been a substantial failure to comply with the provisions of this Article or the
13 rules issued under this Article. Prior to implementation of any of the above disciplinary
14 actions, the Department shall consider the recommendations of the EMS Disciplinary
15 Committee pursuant to G.S. 143-519. The Department's decision to deny, suspend,
16 amend, or revoke credentials may be appealed by the applicant or credentialed
17 personnel pursuant to the provisions of Article 3 of Chapter 150B of the General
18 Statutes, the Administrative Procedure Act."

19 **SECTION 50.(c)** G.S. 131E-162 reads as rewritten:

20 "**§ 131E-162. Statewide trauma system.**

21 The Department shall establish and maintain a program for the development of a
22 statewide trauma system. The Department shall consolidate all State functions relating
23 to trauma systems, both regulatory and developmental, under the auspices of this
24 program.

25 The Commission shall adopt rules to carry out the purpose of this Article. These
26 rules shall be adopted with the advice of the State Emergency Medical Services
27 Advisory Council and shall include the operation of a statewide trauma registry,
28 statewide educational requirements fundamental to the implementation of the trauma
29 system. The rules adopted by the Commission shall establish guidelines for monitoring
30 and evaluating the system including standards and criteria for the denial, suspension,
31 voluntary withdrawal, or revocation of credentials for trauma center ~~designation.~~
32 designation, and the establishment of regional trauma peer review committees. Each
33 regional trauma peer review committee shall be responsible for analyzing trauma patient
34 care data and outcome measures to evaluate the ongoing quality of patient care, system
35 performance, and medical direction within the regional trauma system. The committee
36 membership shall include physicians, nurses, EMS personnel, trauma registrars, and
37 hospital administrators. Review of medical records by the Trauma Peer Review
38 Committee is confidential and protected under G.S. 143-518. An EMS Peer Review
39 Committee, its members, proceedings, records, and materials produced and materials
40 considered shall be afforded the same protections afforded medical review committees,
41 their members, proceedings, records, and materials under G.S. 131E-95. The rules
42 adopted by the Commission shall avoid duplication of reporting and minimize the cost
43 to hospitals or other persons reporting under this act. The Office of Emergency Medical

1 Services shall be the agency responsible for monitoring system development, ensuring
2 compliance with rules, and overseeing system effectiveness.

3 With respect to collection of data and educational requirements regarding trauma,
4 rules adopted by the Medical Care Commission shall limit the authority of the
5 Department to hospitals and Emergency Medical Services providers. Nothing in this
6 Article shall be interpreted so as to grant the Department authority to require private
7 physicians, schools, or universities, except those participating in the trauma system, to
8 provide information or data or to conduct educational programs regarding trauma."

9 **SECTION 50.(d)** G.S. 143-508 is amended by adding the following
10 subdivision to read:

11 "(13) Establish occupational standards for EMS systems, EMS educational
12 institutions, and specialty care transport programs."

13 **SECTION 50.(e)** G.S. 143-509(9) reads as rewritten:

14 **"§ 143-509. Powers and duties of Secretary.**

15 The Secretary of the Department of Health and Human Services has full
16 responsibilities for supervision and direction of the emergency medical services
17 program and, to that end, shall accomplish all of the following:

18 ...

19 (9) Promote a means of training individuals to administer life-saving
20 treatment to persons who suffer a severe adverse reaction to ~~insect~~
21 ~~stings.~~ agents that might cause anaphylaxis. Individuals, upon
22 successful completion of this training program, may be approved by
23 the North Carolina Medical Care Commission to administer
24 epinephrine to these persons, in the absence of the availability of
25 physicians or other practitioners who are authorized to administer the
26 treatment. This training may also be offered as part of the emergency
27 medical services training program.

28 ..."

29 **SECTION 50.(f)** G.S. 143-518(a) reads as rewritten:

30 "(a) Medical records compiled and maintained by the ~~Department~~ Department,
31 hospitals participating in the statewide trauma system, or EMS providers in connection
32 with dispatch, response, treatment, or transport of individual patients or in connection
33 with the statewide trauma system pursuant to Article 7 of Chapter 131E of the General
34 Statutes may contain patient identifiable data which will allow linkage to other health
35 care-based data systems for the purposes of quality management, peer review, and
36 public health initiatives.

37 These medical records and data shall be strictly confidential and shall not be
38 considered public records within the meaning of G.S. 132-1 and shall not be released or
39 made public except under any of the following conditions:

40 (1) Release is made of specific medical or epidemiological information for
41 statistical purposes in a way that no person can be identified.

42 (2) Release is made of all or part of the medical record with the written
43 consent of the person or persons identified or their guardians.

- 1 (3) Release is made to health care personnel providing medical care to the
2 patient.
- 3 (4) Release is made pursuant to a court order. Upon request of the person
4 identified in the record, the record shall be reviewed in camera. In the
5 trial, the trial judge may, during the taking of testimony concerning
6 such information, exclude from the courtroom all persons except the
7 officers of the court, the parties, and those engaged in the trial of the
8 case.
- 9 (5) Release is made to a Medical Review Committee as defined in G.S.
10 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee as
11 defined in G.S. 131E-108, 131E-155, 122C-30, or 131D-21.1.
- 12 (6) Release is made for use in a health research project under rules
13 adopted by the North Carolina Medical Care Commission. The
14 Commission shall adopt rules that allow release of information when
15 an institutional review board, as defined by the Commission, has
16 determined that the health research project:
- 17 a. Is of sufficient scientific importance to outweigh the intrusion
18 into the privacy of the patient that would result from the
19 disclosure;
- 20 b. Is impracticable without the use or disclosure of identifying
21 health information;
- 22 c. Contains safeguards to protect the information from
23 redisclosure;
- 24 d. Contains safeguards against identifying, directly or indirectly,
25 any patient in any report of the research project; and
- 26 e. Contains procedures to remove or destroy at the earliest
27 opportunity, consistent with the purposes of the project,
28 information that would enable the patient to be identified,
29 unless an institutional review board authorizes retention of
30 identifying information for purposes of another research
31 project.
- 32 (7) Release is made to a statewide data processor, as defined in Article
33 11A of Chapter 131E of the General Statutes, in which case the data is
34 deemed to have been submitted as if it were required to have been
35 submitted under that Article.
- 36 (8) Release is made pursuant to any other law."

37 **SECTION 50.5.(a)** G.S. 131E-256 is amended by adding the following
38 subsection to read:

39 "(a1) The Department shall include in the registry a brief statement of any
40 individual disputing the finding entered against the individual in the health care
41 personnel registry pursuant to subsection (a)(1) of this section."

42 **SECTION 50.5.(b)** G.S. 131E-256(e) reads as rewritten:

1 "(e) The Department shall provide an employer or potential employer of any
2 person listed on the Health Care Personnel Registry ~~of information concerning the~~
3 nature of the finding or allegation and the status of the investigation."

4 **SECTION 50.5.(c)** G.S. 131E-256 is amended by adding the following
5 subsection to read:

6 "(i) In the case of a finding of neglect under subsection (a)(1) of this section, the
7 Department shall establish a procedure to permit health care personnel to petition the
8 Department to have his or her name removed from the registry upon a determination
9 that:

- 10 (1) The employment and personal history of the nurse aid does not reflect
11 a pattern of abusive behavior or neglect;
12 (2) The neglect involved in the original finding was a singular occurrence;
13 and
14 (3) The petition for removal is submitted after the expiration of the
15 one-year period which began on the date the petitioner's name was
16 added to the registry under subsection (a)(1) of this section."

17 **SECTION 51.(a)** G.S. 135-3(8)c. reads as rewritten:

18 "c. **(Effective until June 30, 2004 – See note)** Should a
19 beneficiary who retired on an early or service retirement
20 allowance under this Chapter be reemployed, or otherwise
21 engaged to perform services, by an employer participating in
22 the Retirement System on a part-time, temporary, interim, or on
23 a fee-for-service basis, whether contractual or otherwise, and if
24 such beneficiary earns an amount during the 12-month period
25 immediately following the effective date of retirement or in any
26 calendar year which exceeds fifty percent (50%) of the reported
27 compensation, excluding terminal payments, during the 12
28 months of service preceding the effective date of retirement, or
29 twenty thousand dollars (\$20,000), whichever is greater, as
30 hereinafter indexed, then the retirement allowance shall be
31 suspended as of the first day of the month following the month
32 in which the reemployment earnings exceed the amount above,
33 for the balance of the calendar year. The retirement allowance
34 of the beneficiary shall be reinstated as of January 1 of each
35 year following suspension. The amount that may be earned
36 before suspension shall be increased on January 1 of each year
37 by the ratio of the Consumer Price Index to the Index one year
38 earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

39 The computation of postretirement earnings of a beneficiary
40 under this sub-subdivision, G.S. 135-3(8)c., who has been
41 retired at least six months and has not been employed in any
42 capacity, except as a substitute teacher or a part-time tutor, with
43 a public school for at least six months immediately preceding
44 the effective date of reemployment, shall not include earnings

1 while the beneficiary is employed to teach on a substitute,
2 interim, or permanent basis in a public ~~school~~ school or a
3 charter school. The Department of Public Instruction shall
4 certify to the Retirement System that a beneficiary is employed
5 to teach by a local school administrative unit or a charter school
6 under the provisions of this sub-subdivision and as a retired
7 teacher as the term is defined under the provisions of G.S.
8 115C-325(a)(5a).

9 Beneficiaries employed under this sub-subdivision are not
10 entitled to any benefits otherwise provided under this Chapter
11 as a result of this period of employment."

12 **SECTION 51.(b)** G.S. 115C-325(a)(5a) reads as rewritten:

13 "(5a) **(Effective until June 30, 2004)** "Retired teacher" means a beneficiary
14 of the Teachers' and State Employees' Retirement System of North
15 Carolina who has been retired at least six months, has not been
16 employed in any capacity, other than as a substitute teacher or a
17 part-time tutor, with a local board of education or a charter school for
18 at least six months, immediately preceding the effective date of
19 reemployment, is determined by a local board of education or a charter
20 school to have had satisfactory performance during the last year of
21 employment by a local board of ~~education~~ education or the charter
22 school, and who is employed to teach as provided in G.S. 135-3(8)c. A
23 retired teacher at a school other than a charter school shall be treated
24 the same as a probationary teacher except that (i) a retired teacher is
25 not eligible for career status and (ii) the performance of a retired
26 teacher who had attained career status prior to retirement shall be
27 evaluated in accordance with a local board of education's policies and
28 procedures applicable to career teachers."

29 **SECTION 51.(c)** This section expires June 30, 2004.

30 **SECTION 52.** G.S. 135-40.8(e), as enacted in Section 30.19C.(b) of S.L.
31 2003-284, reads as rewritten:

32 "(e) Where qualified out-of-state preferred providers of medical care are not
33 reasonably available in medical emergencies, the Plan pays the amounts covered by
34 subsection (a) of this section. Any amount of charges for services under this section that
35 exceeds the amount allowed by the Plan for the services of qualified preferred providers
36 under this section shall be negotiated between the Plan and the provider of medical
37 services, and the Plan shall ensure that the Plan member is not held financially
38 responsible for the amount of these excess charges. ~~If a Plan member is not capable of~~
39 ~~making a decision about choosing an in-State qualified preferred provider and~~
40 ~~emergency services personnel transport the Plan member to a provider outside of the~~
41 ~~Plan network, then the coverage under this subsection shall apply.~~ This subsection also
42 shall apply if a Plan member has a medical emergency, is not capable of making a
43 decision about choosing an in-State qualified preferred provider, and emergency
44 services personnel transport the Plan member to a provider outside of the Plan network.

1 As used in this section, a 'medical emergency' is the sudden and unexpected onset of a
 2 condition manifesting itself by acute symptoms of sufficient severity that, in the absence
 3 of immediate medical care, could imminently result in injury or danger to self or
 4 others."

5 **SECTION 54.** G.S. 136-180(a), as amended by Section 29.11(a) of S.L.
 6 2003-284, reads as rewritten:

7 "(a) Funds allocated from the Trust Fund for urban loops may be used only for the
 8 following urban loops:

9 Loop	10 Description	11 Affected 12 Counties
13 ...		
14 Greensboro Loop	15 Multilane facility on new 16 location encircling City 17 of Greensboro including 18 interchanges with Cone 19 Boulevard Extension and 20 Lewis Fleming <u>Lewiston-Fleming</u> 21 Road Extension	22 Guilford

21 ..."

22 **SECTION 55.(a)** G.S. 143B-437.51 reads as rewritten:

23 **"§ 143B-437.51. Definitions.**

24 The following definitions apply in this Part:

- 25 ...
- 26 (2) Base years. – The first ~~two complete calendar years~~ 24 months
 27 following the effective date of an agreement.
 - 28 (3) Business. – A corporation, sole proprietorship, cooperative association,
 29 partnership, S corporation, limited liability company, nonprofit
 30 corporation, or other form of business organization, located either
 31 within or outside this State. A 'business' may be a division or smaller
 32 operating unit of a business organization if the Committee makes an
 33 explicit finding that this designation is necessary to secure the project
 34 and develops terms in a Community Economic Development
 35 Agreement to ensure that positions or employees of the business or of
 36 a related entity that exist in the State and that are not part of the project
 37 are not transferred or shifted to create or fill eligible positions.

38 ..."

39 **SECTION 55.(b)** G.S. 143B-437.54(d) reads as rewritten:

40 ~~"(d) Public Notice. The Committee shall do all of the following at least 15~~
 41 ~~business days prior to the adoption of or amendment to any proposed criteria:~~

- 42 ~~(1) Publish the proposed criteria on the Department of Commerce's web~~
 43 ~~site.~~

1 (2) ~~Provide notice to persons who have requested notice of proposed~~
2 ~~criteria.~~

3 (3) ~~Accept oral and written comments on the proposed criteria.~~

4 (d) Public Notice. – At least 20 business days before the effective date of any
5 criteria or nontechnical amendments to criteria, the Committee must publish the
6 proposed criteria on the Department of Commerce's web site and provide notice to
7 persons who have requested notice of proposed criteria. In addition, the Committee
8 must accept oral and written comments on the proposed criteria during the 15 business
9 days beginning on the first day that the Committee has completed these notifications.

10 For the purpose of this subsection, a technical amendment is either of the following:

11 (1) An amendment that corrects a spelling or grammatical error.

12 (2) An amendment that makes a clarification based on public comment
13 and could have been anticipated by the public notice that immediately
14 preceded the public comment."

15 **SECTION 56.** G.S. 147-33.89, as enacted by S.L. 2003-172, is recodified as
16 G.S. 147-33.90, to avoid a conflict with S.L. 2003-153.

17 **SECTION 57.(a)** G.S. 148-22.2, as rewritten by Section 8 of S.L. 2003-13,
18 reads as rewritten:

19 **"§ 148-22.2. Procedure when surgical operations on inmates are necessary.**

20 The medical staff of any penal institution of the State of North Carolina is hereby
21 authorized to perform or cause to be performed by competent and skillful surgeons
22 surgical operations upon any inmate when such operation is necessary for the
23 improvement of the physical condition of the inmate. The decision to perform an
24 operation shall be made by the chief medical officer of the institution, with the approval
25 of the superintendent of the institution, and with the advice of the medical staff of the
26 institution. No operation shall be performed without the consent of the inmate; or, if the
27 inmate is a minor, without the consent of a responsible member of the inmate's family, a
28 guardian, or one having legal custody of the minor; or, if the inmate be non compos
29 mentis, then the consent of a responsible member of the inmate's family or of a guardian
30 shall be obtained. Any surgical operations on inmates of State penal institutions shall
31 also be subject to the provisions of Article 1A of Chapter 90 of the General Statutes and
32 ~~Statutes, G.S. 90-21.13~~G.S. 90-21.13, and G.S. 90-21.14.G.S. 90-21.16.

33 If the operation on the inmate is determined by the chief medical officer to be an
34 emergency situation in which immediate action is necessary to preserve the life or
35 health of the inmate, and the inmate, if sui juris, is unconscious or otherwise
36 incapacitated so as to be incapable of giving consent or in the case of a minor or inmate
37 non compos mentis, the consent of a responsible member of the inmate's family,
38 guardian, or one having legal custody of the inmate cannot be obtained within the time
39 necessitated by the nature of the emergency situation, then the decision to proceed with
40 the operation shall be made by the chief medical officer and the superintendent of the
41 institution with the advice of the medical staff of the institution.

42 In all cases falling under this ~~Article, section,~~ the chief medical officer of the
43 institution and the medical staff of the institution shall keep a careful and complete
44 record of the measures taken to obtain the permission for the operation and a complete

1 medical record signed by the medical superintendent or director, the surgeon performing
2 the operation and all surgical consultants of the operation performed."

3 **SECTION 57.(b)** G.S. 148-46.2 reads as rewritten:

4 "**§ 148-46.2. Procedure when consent is refused by prisoner.**

5 When the Secretary of Correction finds as a fact that the injury to any prisoner was
6 willfully and intentionally self-inflicted and that an operation or treatment is necessary
7 for the preservation or restoration of the health of the prisoner and that the prisoner is
8 competent to act for himself or herself; and that attempts have been made to obtain
9 consent for the proposed operation or treatment but such consent was refused, and the
10 findings have been reduced to writing and entered into the prisoner's records as a
11 permanent part thereof, then the chief medical officer of the prison hospital or prison
12 institution shall be authorized to give or withhold, on behalf of the prisoner, consent to
13 the operation or treatment.

14 In all cases coming under the provisions of this ~~Article, section,~~ the medical staff of
15 the hospital or institution shall keep a careful and complete medical record of the
16 treatment and surgical procedures undertaken. The record shall be signed by the chief
17 medical officer of the hospital or institution and the surgeon performing any surgery.
18 Any treatment of self-inflicted injuries shall also be subject to the provisions of G.S.
19 90-21.13 and ~~90-21.14.~~G.S. 90-21.16."

20 **SECTION 58.** G.S. 148-32.1(a) reads as rewritten:

21 "(a) The Department of Correction shall pay each local confinement facility a
22 standard sum set by the General Assembly in its appropriation acts at a per day, per
23 inmate rate, for the cost of providing food, clothing, personal items, supervision and
24 necessary ordinary medical services to those inmates committed to the custody of the
25 local confinement facility to serve criminal sentences of 30 days or more. This
26 reimbursement shall not include any period of detention prior to actual commitment by
27 the sentencing court. The Department shall also pay to the local confinement facility
28 extraordinary medical expenses incurred for the inmates, defined as follows:

- 29 (1) Medical expenses incurred as a result of providing health care to an
30 inmate as an inpatient (hospitalized);
- 31 (2) Other medical expenses when the total cost exceeds thirty-five dollars
32 (\$35.00) per occurrence or illness as a result of providing health care
33 to an inmate as an outpatient (nonhospitalized); and
- 34 (3) Cost of replacement of eyeglasses and dental prosthetic devices if
35 those eyeglasses or devices are broken while the inmate is
36 incarcerated, provided the inmate was using the eyeglasses or devices
37 at the time of his commitment and then only if prior written consent of
38 the Department is obtained by the local facility.

39 In order to obtain reimbursement for any of the expenses authorized by this section, a
40 local confinement facility shall submit an invoice to the Department within one year of
41 the date of commitment by the sentencing court."

42 **SECTION 59.(a)** G.S. 150B-21.1(a), as amended by Section 2 of S.L.
43 2003-229, reads as rewritten:

1 "(a) Adoption. – An agency may adopt a temporary rule when it finds that
2 adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary
3 to the public interest and that the immediate adoption of the rule is required by one or
4 more of the following:

- 5 (1) A serious and unforeseen threat to the public health, safety, or welfare.
- 6 (2) The effective date of a recent act of the General Assembly or the
7 United States Congress.
- 8 (3) A recent change in federal or State budgetary policy.
- 9 (4) A recent federal regulation.
- 10 (5) A recent court order.
- 11 (6) The need for ~~the~~ a rule establishing review criteria as authorized by
12 G.S. 131E-183(b) to ~~implement~~ complement or be made consistent
13 with the State Medical Facilities Plan approved by the Governor, if the
14 rule addresses a matter included in the State Medical Facilities
15 Plan-Plan, and the proposed rule and a notice of public hearing is
16 submitted to the Codifier of Rules prior to the effective date of the
17 Plan.
- 18 (7) The need for the Wildlife Resources Commission to establish any of
19 the following:
 - 20 a. No wake zones.
 - 21 b. Hunting or fishing seasons.
 - 22 c. Hunting or fishing bag limits.
 - 23 d. Management of public game lands as defined in G.S.
24 113-129(8a).
- 25 (8) The need for the Secretary of State to implement the certification
26 technology provisions of Article 11A of Chapter 66 of the General
27 Statutes and to adopt uniform Statements of Policy that have been
28 officially adopted by the North American Securities Administrators
29 Association for the purpose of promoting uniformity of state securities
30 regulation.
- 31 (9) The need for the Commissioner of Insurance to implement the
32 provisions of G.S. 58-2-205.
- 33 (10) The need for the Chief Information Officer to implement the
34 information technology procurement provisions of Article 3D of
35 Chapter 147 of the General Statutes.
- 36 (11) The need for the State Board of Elections to adopt a temporary rule
37 after prior notice or hearing or upon any abbreviated notice or hearing
38 the agency finds practical for one or more of the following:
 - 39 a. In accordance with the provisions of G.S. 163-22.2.
 - 40 b. To implement any provisions of state or federal law for which
41 the State Board of Elections has been authorized to adopt rules.
 - 42 c. The need for the rule to become effective immediately in order
43 to preserve the integrity of upcoming elections and the elections
44 process.

1 (12) The need for an agency to adopt a temporary rule to implement the
2 provisions of any of the following acts until all rules necessary to
3 implement the provisions of the act have become effective as either
4 temporary or permanent rules:

5 a. Repealed by Session Laws 2000, ch. 148, s. 5, effective July 1,
6 2002.

7 b. Repealed by Session Laws 2000, ch. 69, s. 5, effective July 1,
8 2003.

9 (13) The need for the Secretary of Transportation to adopt temporary rules
10 concerning the permitted height of mobile and modular homes.

11 (14) The need for the Secretary of Transportation to adopt temporary rules
12 pursuant to G.S. 113A-11(b) to establish a class of minimum criteria
13 projects.

14 (15) The need for the Department of Health and Human Services to adopt
15 temporary rules concerning the placement of individuals in facilities
16 licensed under Article 2 of Chapter 122C of the General Statutes and
17 the enrollment of providers of services to such individuals in the
18 Medicaid program.

19 (a1) A recent act, change, regulation, or order as used in subdivisions (2) through
20 (5) of this subsection means an act, change, regulation, or order occurring or made
21 effective no more than 210 days prior to the submission of a temporary rule to the Rules
22 Review Commission. Upon written request of the agency, the Commission may waive
23 the 210-day requirement upon consideration of the degree of public benefit, whether the
24 agency had control over the circumstances that required the requested waiver, notice to
25 and opposition by the public, the need for the waiver, and previous requests for waivers
26 submitted by the agency."

27 **SECTION 59.(b)** G.S. 150B-21.1(a1), as enacted by Section 2 of S.L.
28 2003-229, reads as rewritten:

29 "(a1)(a2) Unless otherwise provided by law, at least 30 business days prior to
30 adopting a temporary rule, the agency shall:

31 (1) Submit the rule and a notice of public hearing to the Codifier of Rules,
32 and the Codifier of Rules shall publish the proposed temporary rule
33 and the notice of public hearing on the Internet to be posted within five
34 business days.

35 (2) Notify persons on the mailing list maintained pursuant to G.S.
36 150B-21.2(d) and any other interested parties of its intent to adopt a
37 temporary rule and of the public hearing.

38 (3) Accept written comments on the proposed temporary rule for at least
39 15 business days prior to adoption of the temporary rule.

40 (4) Hold at least one public hearing on the proposed temporary rule no
41 less than five days after the rule and notice have been published.

42 (a3) An agency must also prepare a written statement of its findings of need for a
43 temporary rule stating why adherence to the notice and hearing requirements in G.S.
44 150B-21.2 would be contrary to the public interest and why the immediate adoption of

1 the rule is required. The statement must be signed by the head of the agency adopting
2 the temporary rule."

3 **SECTION 59.(c)** G.S. 150B-21.1A(a), as enacted by Section 3 of S.L.
4 2003-229, reads as rewritten:

5 "(a) Adoption. – An agency may adopt an emergency rule without prior notice or
6 hearing or upon any abbreviated notice or hearing the agency finds practical when it
7 finds that adherence to the notice and hearing requirements of this Part would be
8 contrary to the public interest and that the immediate adoption of the rule is required by
9 a serious and unforeseen threat to the public health or safety. When an agency adopts an
10 emergency rule, it must simultaneously commence the process for adopting a temporary
11 rule by submitting the rule to the Codifier of Rules for publication on the Internet in
12 accordance with ~~G.S. 150B-21.1(a1)~~. G.S. 150B-21.1(a2). The Department of Health
13 and Human Services or the appropriate rule-making agency within the Department may
14 adopt emergency rules in accordance with this section when a recent act of the General
15 Assembly or the United States Congress or a recent change in federal regulations
16 authorizes new or increased services or benefits for children and families and the
17 emergency rule is necessary to implement the change in State or federal law."

18 **SECTION 59.(d)** G.S. 150B-21.12(c), as amended by Section 10 of S.L.
19 2003-229, reads as rewritten:

20 "(c) Changes. – When an agency changes a rule in response to an objection by the
21 Commission, the Commission must determine whether the change satisfies the
22 Commission's objection. If it does, the Commission must approve the rule. If it does
23 not, the Commission must send the agency a written statement of the Commission's
24 continued objection and the reason for the continued objection. The Commission must
25 also determine whether the change is substantial. In making this determination, the
26 Commission shall use the standards set forth in G.S. 150B-21.2(g). If the change is
27 substantial, the revised rule shall be published and reviewed in accordance with the
28 procedure set forth in ~~G.S. 150B-21.1(a1)~~ G.S. 150B-21.1(a2) and G.S. 150B-21.1(b)."

29 **SECTION 59.(e)** Section 14 of S.L. 2003-229 reads as rewritten:

30 "**SECTION 14.** Nothing in this act shall be construed to limit or repeal any specific
31 grant of temporary rule-making authority to an agency enacted by the General
32 Assembly prior to the effective date of this act. Any temporary rule adopted after the
33 effective date of this act shall be adopted in accordance with the procedure set forth in
34 G.S. 150B-21.1 as amended by this act."

35 **SECTION 60.(a)** In order to reflect the rewrite of G.S. 150B-21.1 by S.L.
36 2003-229, effective July 1, 2003, G.S. 150B-21.1(a11), as enacted by Section 3 of S.L.
37 2003-184, is recodified as G.S. 150B-21.1(a)(16) and reads as rewritten:

38 "(16) ~~Notwithstanding the provisions of subsection (a) of this section, the~~
39 The need for the Department of Transportation ~~may~~ to adopt
40 temporary rules concerning logo signs pursuant to G.S. 136-89.56.
41 ~~After having the proposed temporary rule published in the North~~
42 ~~Carolina Register and at least 30 days prior to adopting a temporary~~
43 ~~rule pursuant to this subsection, the Department shall:~~

- ~~(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule.~~
- ~~(2) Accept oral and written comments on the proposed temporary rule.~~
- ~~(3) Hold at least one public hearing on the proposed temporary rule.~~

~~When the Department adopts a temporary rule pursuant to this subsection, the Department shall submit a reference to this subsection as the Department's statement of need to the Codifier of Rules.~~

~~Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Department in accordance with this subsection."~~

SECTION 60.(b) This section does not affect the July 1, 2005, expiration of Section 3 of S.L. 2003-184.

SECTION 61.(a) Since G.S. 150B-21.1(a8) expired prior to the effective date of S.L. 2003-229, the Revisor of Statutes shall give no effect to the recodification and amendment of that statute.

SECTION 61.(b) Since G.S. 150B-21.1(a9) expired prior to the effective date of S.L. 2003-229, the Revisor of Statutes shall give no effect to the recodification and amendment of that statute.

SECTION 62.(a) Chapter 152 of the General Statutes is not applicable to Johnston County.

SECTION 62.(b) This section becomes effective upon the expiration of the term of the current coroner in Johnston County.

SECTION 63. G.S. 160A-176.2 reads as rewritten:

"§ 160A-176.2. Ordinances effective in Atlantic Ocean.

(a) A city may adopt ordinances to regulate and control swimming, personal watercraft operation, surfing and littering in the Atlantic Ocean and other waterways adjacent to that portion of the city within its boundaries or within its extraterritorial jurisdiction; provided, however, nothing contained herein shall be construed to permit any city to prohibit altogether swimming or surfing or to make these activities unlawful.

(b) Subsection (a) of this section applies to the Towns of Atlantic Beach, Calabash, Cape Carteret, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, Oak Island, Ocean Isle Beach, Southern Shores, Sunset Beach, Topsail Beach, and Wrightsville Beach, and the City of Southport only."

SECTION 63.5. G.S. 160A-635(a) reads as rewritten:

"§ 160A-635. Membership; officers; compensation.

(a) The governing body of an authority is the Board of Trustees. The Board of Trustees shall consist of:

- (1) The mayor of the four cities within the service area that have the largest population, or a member of the city council designated by the city council to serve in the absence of the mayor.

- 1 (2) Two members of the Board of Transportation appointed by the
2 Secretary of Transportation, to serve as ex officio nonvoting members.
- 3 (3) The chair of each Metropolitan Planning Organization in the territorial
4 jurisdiction. The chair of the Metropolitan Planning Organization may
5 appoint the Chair of the Transportation Advisory Committee, or a
6 designee approved by the Transportation Advisory Committee, as his
7 or her designee.
- 8 (4) The chair of the board of commissioners of any county within the
9 territorial jurisdiction or a member of the board of commissioners
10 designated by the board to serve in the absence of the chair, but only if
11 the Board of Trustees by resolution has expanded the Board of
12 Trustees to include the chair of the board of commissioners of that
13 county and the board of commissioners of that county has consented
14 by resolution.
- 15 (5) The chair of the principal airport authority or airport commission of
16 each of the two most populous counties within the territorial
17 jurisdiction, as determined by the most recent decennial federal census.
18 The chair of the airport authority or airport commission may appoint a
19 designee. The designee is not required to be a member of the airport
20 authority or airport commission."

21 **SECTION 64.** G.S. 163-34 reads as rewritten:

22 **"§ 163-34. Power of county board of elections to maintain order.**

23 Each county board of elections shall possess full power to maintain order, and to
24 enforce obedience to its lawful commands during its sessions, and shall be constituted
25 an inferior court for that purpose. If any person shall refuse to obey the lawful
26 commands of any county board of elections, or by disorderly conduct in its hearing or
27 presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed
28 by its chairman, and attested by its secretary, commit the person so offending to the
29 common jail of the county for a period not exceeding 30 days. Such order shall be
30 executed by any sheriff ~~or constable~~ to whom the same shall be delivered, or if a sheriff
31 ~~or constable~~ shall not be present, or shall refuse to act, by any other person who shall be
32 deputed by the county board of elections in writing, and the keeper of the jail shall
33 receive the person so committed and safely keep him for such time as shall be
34 mentioned in the commitment: Provided, that any person committed under the
35 provisions of this section shall have the right to post a two hundred dollar (\$200.00)
36 bond with the clerk of the superior court and appeal to the superior court for a trial on
37 the merits of his commitment."

38 **SECTION 65.** G.S. 163-35(b) reads as rewritten:

39 "(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the
40 county board of elections stating that the nominee for director of elections is submitted
41 for appointment upon majority selection by the county board of elections the Executive
42 Director shall issue a letter of appointment of such nominee to the chairman of the
43 county board of elections within 10 days after receipt of the nomination. Thereafter, the
44 county board of elections shall enter in its official minutes the specified duties,

1 responsibilities and designated authority assigned to the director by the county board of
2 elections. A copy of the specified duties, responsibilities and designated authority
3 assigned to the director shall be filed with the State Board of Elections.

4 The county board of elections may, by petition signed by a majority of the board,
5 recommend to the Executive Director of the State Board of Elections the termination of
6 the employment of the county board's director of elections. The petition shall clearly
7 state the reasons for termination. Upon receipt of the petition, the Executive Director
8 shall forward a copy of the petition by certified mail, return receipt requested, to the
9 county director of elections involved. The county director of elections may reply to the
10 petition within 15 days of receipt thereof. Within 20 days of receipt of the county
11 director of elections' reply or the expiration of the time period allowed for the filing of
12 the reply, the State Executive Director shall render a decision as to the termination or
13 retention of the county director of elections. The decision of the Executive Director of
14 the State Board of Elections shall be final unless the decision is, within 20 days from the
15 official date on which it was made, deferred by the State Board of Elections. If the State
16 Board defers the decision, then the State Board shall make a final decision on the
17 termination after giving the county director of elections an opportunity to be heard and
18 to present witnesses and information to the State Board, and then notify the Executive
19 Director of its decision in writing. Any one or more members of the State Board
20 designated by the remaining members of the State Board may conduct the hearing and
21 make a final determination on the termination. For the purposes of this subsection, the
22 member(s) designated by the remaining members of the State Board shall possess the
23 same authority conferred upon the chairman pursuant to G.S. 163-23. If the decision,
24 rendered by the State Board of Elections, after the hearing, results in concurrence with
25 the decision entered by the Executive Director, the decision becomes final. If the
26 decision rendered by the Board after the hearing is contrary to that entered by the
27 Executive Director, then the Executive Director shall, within 15 days from the written
28 notification, enter an amended decision consistent with the results of the decision by the
29 State Board of Elections. Elections or its designated member(s).

30 Upon majority vote on the recommendation of the Executive Director, the State
31 Board of Elections may initiate proceedings for the termination of a county director of
32 elections for just cause. If the State Board votes to initiate proceedings for termination,
33 the State Board shall state the reasons for the termination in writing and send a copy by
34 certified mail, return receipt requested, to the county director of elections. The director
35 has 15 days to reply in writing to the notice. The State Board of Elections shall also
36 notify the chair of the county board of elections and the chair of the county board of
37 commissioners that the State Board has initiated termination proceedings. The State
38 Board shall make a final decision on the termination after giving the county director of
39 elections an opportunity to be heard, present witnesses, and provide information to the
40 State Board. ~~The State Board of Elections shall notify the chair of the county board of~~
41 ~~elections and the chair of the county board of commissioners that the State Board has~~
42 ~~initiated termination proceedings.~~ Any one or more members of the State Board
43 designated by the remaining members of the State Board may conduct the hearing and
44 make a final decision. For the purposes of this subsection, the member(s) designated by

1 the remaining members of the State Board shall possess the same authority conferred
2 upon the chairman pursuant to G.S. 163-23.

3 A county director of elections may be suspended, with pay, without warning for
4 causes relating to personal conduct detrimental to service to the county or to the State
5 Board of Elections, pending the giving of written reasons, in order to avoid the undue
6 disruption of work or to protect the safety of persons or property or for other serious
7 reasons. Any suspension may be initiated by the Executive Director but may not be for
8 more than five days. Upon placing a county director of elections on suspension, the
9 Executive Director shall, as soon as possible, reduce to writing the reasons for the
10 suspension and forward copies to the county director of elections, the members of the
11 county board of elections, the chair of the county board of commissioners, and the State
12 Board of Elections. If no action for termination has been taken within five days, the
13 county director of elections shall be fully reinstated.

14 Termination of any county director of elections shall comply with this subsection.
15 ~~For the purposes of this subsection, the individual designated by the remaining four~~
16 ~~members of the State Board shall possess the same authority conferred upon the~~
17 ~~chairman pursuant to G.S. 163-23."~~

18 **SECTION 66.** G.S. 163-166.12, as enacted in Session Law 2003-226, is
19 amended by adding a new subsection to read:

20 "(b1) For purposes of this section, if a voter registration applicant, as permitted in
21 G.S. 163-82.6, delegates transporting the application form to another person, the county
22 board of elections shall treat that form as being submitted in the manner it is submitted
23 by the person who accepted the delegation."

24 **SECTION 67.(a)** G.S. 163-278.7(b)(7) reads as rewritten:

25 "(b) Each appointed treasurer shall file with the Board at the time required by G.S.
26 163-278.9(a)(1) a statement of organization that includes:

27 ...

28 (7) A listing of all banks, safety deposit boxes, or other depositories used,
29 including the names and numbers of all accounts maintained and the
30 numbers of all such safety deposit boxes used, provided that the Board
31 shall keep any account number included in any report filed after March
32 1, 2003, and required by this Article confidential except as necessary
33 to conduct an audit or investigation, except as required by a court of
34 competent jurisdiction, or unless confidentiality is waived by the
35 treasurer. Disclosure of an account number in violation of this
36 subdivision shall not give rise to a civil cause of action. This limitation
37 of liability does not apply to the disclosure of account numbers in
38 violation of this subdivision as a result of gross negligence, wanton
39 conduct, or intentional wrongdoing that would otherwise be
40 actionable.

41 ..."

42 **SECTION 67.(b)** This section is effective on and after January 1, 2003.

43 **SECTION 68.** G.S. 163-278.12A is repealed.

44 **SECTION 69.** G.S. 163-278.64(d)(5) reads as rewritten:

1 "(5) A candidate and the candidate's committee shall limit the use of all
2 revenues permitted by this subsection to expenditures for
3 campaign-related purposes only. The Board shall publish guidelines
4 outlining permissible campaign-related expenditures. In establishing
5 those guidelines, the Board shall differentiate expenditures that
6 reasonably further a candidate's campaign from expenditures for
7 personal use that would be incurred in the absence of the candidacy. In
8 establishing the guidelines, the Board shall review relevant provisions
9 of G.S. 163-278.42(e), the Federal Election Campaign Act and rules
10 adopted pursuant to it, and similar provisions in other states."

11 **SECTION 70.** G.S. 168-2 reads as rewritten:

12 "**§ 168-2. Right of access to and use of public places.**

13 Handicapped persons have the same right as the able-bodied to the full and free use
14 of the streets, highways, sidewalks, walkways, public buildings, public facilities, and all
15 other buildings and facilities, both publicly and privately owned, which serve the public.
16 The Department of Health and Human Services shall develop, print, and promote the
17 publication ACCESS NORTH CAROLINA. It shall make copies of the publication
18 available to the Department of Commerce for its use in Welcome Centers and other
19 appropriate Department of Commerce offices. The Department of ~~Economic and~~
20 ~~Community Development-Commerce~~ shall promote ACCESS NORTH CAROLINA in
21 its publications (including providing a toll-free telephone line and an address for
22 requesting copies of the publication) and provide technical assistance to the Department
23 of Health and Human Services on travel attractions to be included in ACCESS NORTH
24 CAROLINA. The Department of Commerce shall forward all requests for mailing
25 ACCESS NORTH CAROLINA to the Department of Health and Human Services."

26 **SECTION 71.(a)** G.S. 168-4.2 reads as rewritten:

27 "**§ 168-4.2. May be accompanied by assistance dog-service animal.**

28 Every mobility impaired person, as defined in this section, visually impaired person,
29 as broadly defined to include visual disability, ~~or~~ hearing impaired person, as defined in
30 G.S. 8B-1(2), or person with a seizure disorder has the right to be accompanied by ~~an~~
31 ~~assistance dog~~ a service animal especially trained for the purpose of providing
32 assistance to a person with the same impairing condition as the person wishing to be
33 accompanied, in any of the places listed in G.S. 168-3, and has the right to keep the
34 ~~assistance dog~~ service animal on any premises the person leases, rents, or uses. The
35 person qualifies for these rights upon the showing of a tag, issued by the Department of
36 Health and Human Services, ~~pursuant to~~ under G.S. 168-4.3, stamped "NORTH
37 CAROLINA ~~ASSISTANCE DOG~~ SERVICE ANIMAL PERMANENT
38 REGISTRATION" and stamped with a registration number, or upon a showing that the
39 ~~dog animal~~ is being trained or has been trained as an assistance dog. An assistance dog a
40 service animal. The service animal may accompany a person in any of the places listed
41 in G.S. 168-3 but may not occupy a seat in any of these places. The ~~trainer of the~~
42 ~~assistance dog~~ may be accompanied by the dog service animal may accompany that
43 animal's trainer during training sessions in any of the places listed in G.S. 168-3.

1 A mobility impaired person is a person with a physiological deficiency, regardless of
2 its cause, nature, or extent, that renders the individual unable to move about without the
3 aid of crutches, a wheelchair, or other form of support, or that limits the person's
4 functional ability to ambulate, climb, descend, sit, rise, or perform any other related
5 function."

6 **SECTION 71.(b)** G.S. 168-4.3 reads as rewritten:

7 "**§ 168-4.3. Training and registration of assistance dog-service animal.**

8 The Department of Health and Human Services, shall adopt rules for the registration
9 of assistance dogs-service animals and shall issue registrations to a visually impaired
10 person, a hearing impaired person, ~~or~~ a mobility impaired ~~person~~ person, or a person
11 with a seizure disorder who makes application for registration of a dog-an animal that
12 serves as an assistance dog-a service animal. The rules adopted regarding registration
13 shall require that the ~~dog~~ animal be trained as an assistance dog-a service animal by an
14 appropriate agency, and that the certification and registration be permanent for the
15 particular ~~dog~~ animal and need not be renewed while that particular ~~dog~~ animal serves
16 the person applying for registration as an assistance dog-a service animal. No fee may
17 be charged the person for the application, registration, tag, or replacement in the event
18 the original is lost. The Department of Health and Human Services may, by rule, issue a
19 certification or accept the certification issued by the appropriate training facilities."

20 **SECTION 71.(c)** G.S. 168-4.4 reads as rewritten:

21 "**§ 168-4.4. Responsibility for assistance dog-service animal.**

22 The visually impaired person, hearing impaired person, ~~or~~ mobility impaired ~~person~~
23 person, or person with a seizure disorder who is accompanied by an assistance dog-a
24 service animal may not be required to pay any extra compensation for the ~~dog~~ animal.
25 The person has all the responsibilities and liabilities placed on any person by any
26 applicable law when that person owns or uses any ~~dog~~ animal, including liability for
27 any damage done by the ~~dog~~ animal."

28 **SECTION 72.(a)** Section 9.2 of Chapter 707 of the 1963 Session Laws, as
29 amended by S.L. 2002-66, reads as rewritten:

30 "Sec. 9.2. Beginning with the 2003-2004 fiscal year, the base amount of funding for
31 current expense expenditures from local funds shall include the previous ~~years'~~ year's
32 level of current expense expenditures (for example, eight million seven hundred
33 thousand dollars (\$8,700,000) in 2002-2003), multiplied by one plus the average
34 percentage change in local current expense school expenditures for the two most recent
35 available fiscal ~~year~~ years for low-wealth counties in North Carolina (all local
36 expenditures shall include local current expense expenditures incurred by charter
37 schools within the appropriate districts), as determined by the Superintendent of Public
38 Instruction or that person's designee. The average percentage change shall be calculated
39 by (i) adding together for each of the two previous fiscal years the total current local
40 expense expenditures for all low-wealth counties, (ii) dividing each of those totals,
41 respectively, by the number of low-wealth counties receiving low wealth funding in
42 each year to obtain an average low-wealth county local current expense expenditure for
43 each year, and (iii) comparing the two averages. The average percentage change shall
44 equal the percent difference between the averages for the two years.) The resulting

1 product shall then be multiplied by a ratio consisting of the Average Daily Membership
2 used to distribute State funding for the succeeding fiscal year as provided by the
3 Department of Public Instruction, divided by the Average Daily Membership used to
4 distribute funding for the current fiscal year, as determined by the Superintendent of
5 Public Instruction, or that person's designee. ~~The resulting number shall be added to or~~
6 ~~subtracted from the previous year's amount of current expense expenditures from local~~
7 ~~funds. This sum~~ The resulting product shall be the required level of current expense
8 funding to be appropriated by the Board of Commissioners from any local sources,
9 including both general and supplemental tax revenues, and not including fines and
10 forfeitures or restricted use sales taxes authorized by Article 40 or 42 of Chapter 105 of
11 the General Statutes."

12 **SECTION 72.(b)** The remainder of Chapter 707 of the 1963 Session Laws is
13 not changed by this section except to the extent any previously enacted provisions for
14 the establishment and funding of current expense expenditures are inconsistent with the
15 provisions of this section.

16 **SECTION 73.(a)** Section 6(a) of Chapter 246, Session Laws of 1991, as
17 rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

18 "Sec. 6. Orange County Civil Rights Ordinance. (a) The Board of Commissioners of
19 Orange (hereafter 'Board of Commissioners') may adopt an ordinance (hereafter 'the
20 Ordinance') to prohibit discrimination in ~~employment, housing, housing~~ and public
21 accommodations on the basis of race, color, religion, gender, national origin, age,
22 disability, marital status, familial status, and veteran status.

23 The Board of Commissioners may include in the Ordinance a prohibition of
24 language or conduct or both directed at an individual or at a group of individuals
25 because of that individual's or group of individuals' actual or perceived race, color,
26 religion, gender, national origin, age, disability, marital status, familial status, or veteran
27 status which communicates in a threatening manner words that incite imminent lawless
28 action or which tend to incite an immediate breach of the peace."

29 **SECTION 73.(b)** Section 6(b)(9) of Chapter 246, Session Laws of 1991, as
30 rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

31 "(b) The Board of Commissioners may, in the Ordinance, adopt procedures and
32 delegate powers to the Orange County Human Relations Commission (hereafter 'the
33 Commission') which are necessary and proper for carrying out and enforcing the
34 Ordinance. To assist in the enforcement of the Ordinance, the Commission has, but is
35 not limited to, the following powers:

36 ...

37 (9) Making application, in its discretion, to the Office of Administrative
38 Hearings for the designation of an administrative law judge to preside
39 over a hearing in cases involving allegedly unlawful ~~employment~~
40 ~~practices, public accommodations, public accommodations~~ or other
41 conduct made unlawful by subsection (a) of this section after
42 conciliation efforts have failed; and

43 ..."

1 **SECTION 73.(c)** Section 6(d) of Chapter 246, Session Laws of 1991, as
2 rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

3 "(d) The administrative law judge may recommend the imposition of mandatory
4 and prohibitory injunctive relief, compensatory damages (which, as provided by the
5 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and
6 inconvenience), punitive damages, and any other relief the administrative law judge
7 deems appropriate; provided that:

8 (1) Punitive damages may be recommended only if the administrative law
9 judge finds that the respondent engaged in a practice made unlawful
10 under the ordinance with malice or with reckless indifference to the
11 protected rights of the ~~complainant~~; and complainant.

12 (2) ~~In cases involving unlawful employment practices, the administrative~~
13 ~~law judge may recommend reinstatement, hiring, and/or back pay.~~

14 In all cases wherein the Commission applies to the Office of Administrative
15 Hearings for the designation of an administrative law judge, the Commission shall be
16 the complainant and the case in support of the Commission shall be presented by the
17 Commission's attorney.

18 The administrative law judge may, in his or her discretion, recommend that the
19 respondent be awarded reasonable costs and attorneys' fees in the event the respondent
20 prevails."

21 **SECTION 74.** S.L. 1997-182 is repealed. This also repeals G.S.
22 18B-1006(l).

23 **SECTION 74.1.** Section 17.1(f) of S.L. 2000-138, as amended by S.L. 2002-
24 180, reads as rewritten:

25 "**Section 17.1.(f)** Members of the Commission ~~shall not~~may receive per diem or
26 reimbursement for travel or subsistence. From funds appropriated to the General
27 Assembly, the Legislative Services Commission shall allocate funds for the per diem of
28 the Commission established by this Part."

29 **SECTION 75.** Section 7.13(b) of S.L. 2002-126 reads as rewritten:

30 "**SECTION 7.13.(b)** The Office of State Budget and Management shall ~~issue a~~
31 ~~Request for Proposals for~~ conduct an analysis of the structure and operation of the
32 Department of Public ~~Instruction that identifies~~ Instruction. The analysis shall identify
33 potential efficiencies and savings in the operations of the Department. The analysis may
34 consider consolidation of functions with other agencies and automation of functions.

35 ~~The Request for Proposals may include contingency proposals based on potential~~
36 ~~savings.~~

37 The Office of State Budget and Management shall ~~consult with~~ report its findings to
38 the State Board of Education. The State Board of Education shall report to the Joint
39 Legislative Education Oversight Committee ~~prior to the award of the contract by March~~
40 15, 2004, on the results of the analysis."

41 **SECTION 76.(a)** Section 5 of S.L. 2002-142 reads as rewritten:

42 "**SECTION 5.** It is unlawful to release dogs ~~on, or to allow them to run on,~~ on
43 posted land without the written, signed, and dated permission of the owner or lessee of
44 the land. This permission shall be renewed annually in order to remain active."

1 **SECTION 76.(b)** This section becomes effective October 3, 2002.
2 Prosecutions for offenses committed before the effective date of this act are not abated
3 or affected by this act, and the statutes that would be applicable but for this act remain
4 applicable to those prosecutions.

5 **SECTION 77.(a)** Section 61.5 of S.L. 2002-159 is repealed.

6 **SECTION 77.(b)** Section 1.1 of S.L. 2002-162 is repealed.

7 **SECTION 78.** The introductory language of the second Section 3 of S.L.
8 2003-31 reads as rewritten:

9 "**SECTION 3.3.1.** Section 36(b) of S.L. 2002-159, as amended by Section 1 of S.L.
10 2003-2, reads as rewritten:"

11 **SECTION 79.** The introductory language of Section 1 of S.L. 2003-103
12 reads as rewritten:

13 "**SECTION 1.** Article 1 of Chapter 166A of the General ~~Statutes~~ Statutes is amended
14 by adding a new section to read:"

15 **SECTION 80.** Section 1 of S.L. 2003-110 reads as rewritten:

16 "**SECTION 1.** G.S. 20-141 is amended by adding a new subsection to read:

17 (o) A violation of G.S. 20-123.2 shall be a lesser included offense in any
18 violation of this section. No drivers license points or insurance surcharge shall be
19 assessed on account of a violation of this subsection."

20 **SECTION 81.** Section 2 of S.L. 2003-128 reads as rewritten:

21 "**SECTION 2.(a)** A ~~county~~ county, city, or town may adopt ordinances to regulate
22 the removal and preservation of existing trees and shrubs prior to development within a
23 perimeter buffer zone of up to 50 feet along public roadways and property boundaries
24 adjacent to developed properties and up to 25 feet along property boundaries adjacent to
25 undeveloped properties."

26 "**SECTION 2.(b)** Ordinances adopted pursuant to this section shall:

- 27 (1) Provide that the required buffer area shall not exceed twenty percent
28 (20%) of the area of the tract, net of public road rights-of-way and any
29 required conservation easements.
- 30 (2) Provide that buffer zones that adjoin public roadways shall be
31 measured from the edge of the public road right-of-way.
- 32 (3) Provide that tracts of two acres or less, net of public road
33 rights-of-way, that are zoned for single-family residential use are
34 exempt from the requirements of the ordinances.
- 35 (4) Provide that the ordinances are limited to situations where
36 undeveloped property is planned or zoned in accordance with adopted
37 planning and zoning regulations.
- 38 (5) Provide that a survey of individual trees is not required.
- 39 (6) Include reasonable provisions for access onto and within the subject
40 property.
- 41 (7) Exclude normal forestry activities on property taxed under the
42 present-use value standard or conducted pursuant to a forestry
43 management plan prepared or approved by a forester registered
44 pursuant to Chapter 89B of the General Statutes. However, for such

1 properties, a ~~county~~ county, city, or town may deny a building permit
2 or refuse to approve a site or subdivision plan for a period of three
3 years following completion of the harvest if all or substantially all of
4 the perimeter buffer trees that should have been protected were
5 removed from the tract of land for which the permit or plan approval is
6 sought. A ~~county~~ county, city, or town may deny a permit or refuse to
7 approve a site or subdivision plan for a period of two years if the
8 owner replants the buffer area within 120 days of harvest with plant
9 material that is consistent with buffer areas required under the county's
10 ordinances.

11 "SECTION 2.(c) Before adopting an ordinance under this section, the county board
12 of commissioners or governing body of the city or town shall hold a public hearing on
13 the proposed ordinance. Notice of the public hearing shall be given in accordance with
14 G.S. ~~153A-323~~.153A-323 or G.S. 160A-364, as appropriate.

15 "SECTION 2.(d) ~~This~~ As to county ordinances, this section does not apply to areas
16 located within the corporate limits or extraterritorial planning jurisdiction under Article
17 19 of Chapter 160A of the General Statutes of any municipality.

18 "SECTION 2.(e) This section applies to the Town of Rutherfordton and to Wake
19 County only."

20 SECTION 82.(a) Section 5 of S.L. 2003-147 is repealed.

21 SECTION 82.(b) G.S. 115C-264 reads as rewritten:

22 "§ 115C-264. Operation.

23 In the operation of their public school food programs, the public schools shall
24 participate in the National School Lunch Program established by the federal
25 government. The program shall be under the jurisdiction of the Division of School Food
26 Services of the Department of Public Instruction and in accordance with federal
27 guidelines as established by the Child Nutrition Division of the United States
28 Department of Agriculture.

29 Each school may, with the approval of the local board of education, sell soft drinks
30 to students so long as soft drinks are not sold (i) during the lunch period, (ii) at
31 elementary schools, or (iii) contrary to the requirements of the National School Lunch
32 Program.

33 All school food services shall be operated on a nonprofit basis, and any earnings
34 therefrom over and above the cost of operation as defined herein shall be used to reduce
35 the cost of food, to serve better food, or to provide free or reduced-price lunches to
36 indigent children and for no other purpose. The term "cost of operation" shall be defined
37 as actual cost incurred in the purchase and preparation of food, the salaries of all
38 personnel directly engaged in providing food services, and the cost of nonfood supplies
39 as outlined under standards adopted by the State Board of Education. "Personnel" shall
40 be defined as food service supervisors or directors, bookkeepers directly engaged in
41 food service record keeping and those persons directly involved in preparing and
42 serving food: Provided, that food service personnel shall be paid from the funds of food
43 services only for services rendered in behalf of lunchroom services. Any cost incurred
44 in the provisions and maintenance of school food services over and beyond the cost of

1 operation shall be included in the budget request filed annually by local boards of
2 education with boards of county commissioners. ~~It shall not be mandatory that the~~
3 ~~provisions of G.S. 115C-522(a) and 143-129 be complied with~~ Public schools are not
4 required to comply with G.S. 115C-522(a) in the purchase of supplies and food for such
5 school food services."

6 **SECTION 82.(c)** Section 12 of S.L. 2003-147 reads as rewritten:

7 "**SECTION 12.** Sections 1 through ~~8-9~~ of this act become effective for a local
8 school administrative unit when the unit is certified by the Department of Public
9 Instruction as being E-Procurement compliant, as provided in Section ~~9-10~~ of this act, or
10 April 1, 2004, whichever occurs first. The remainder of this act is effective when it
11 becomes law."

12 **SECTION 82.(d)** Subsections (a) and (b) of this section become effective
13 for a local school administrative unit when the Department of Public Instruction
14 certifies that unit as being E-Procurement compliant as provided in Section 10 of S.L.
15 2003-147, or April 1, 2004, whichever occurs first.

16 **SECTION 83.** Section 2 of S.L. 2003-194 reads as rewritten:

17 "**SECTION 2.** This act is effective when it becomes law and applies to the
18 2003-2004 academic ~~year-year, beginning with the Spring 2004 semester,~~ and each
19 subsequent year."

20 **SECTION 84.(a)** The introductory language of Section 26.(e) of S.L.
21 2003-212 reads as rewritten:

22 "**SECTION 26.(e)** ~~G.S. 58-6-30~~ G.S. 58-15-30 reads as rewritten:"

23 **SECTION 84.(b)** G.S. 58-31-66, as enacted in Section 27 of S.L. 2003-212,
24 reads as rewritten:

25 "**§ 58-31-66. Public construction contract surety bonds.**

26 (a) Neither the State nor any county, city, or other political subdivision of the
27 State, or any officer, employee, or other person acting on behalf of any such entity shall,
28 with respect to any public building or construction contract, require any contractor,
29 bidder, or proposer to procure a bid bond, payment bond, or performance bond from a
30 particular surety, agent, producer, or broker.

31 (b) ~~Nothing in this section prohibits an officer or employee acting on behalf of~~
32 ~~the State or a county, city, or other political subdivision of the State from:~~

33 (1) ~~Approving the form, sufficiency, or manner of execution of the surety~~
34 ~~bonds furnished by the surety selected by the bidder to underwrite the~~
35 ~~bonds.~~

36 (2) ~~Disapproving, on a reasonable, nondiscriminatory basis, the surety~~
37 ~~selected by the bidder to underwrite the bonds because of the financial~~
38 ~~condition of the surety.~~

39 (c) ~~A violation of this section renders the public building or construction contract~~
40 ~~void ab initio."~~

41 **SECTION 84.(c)** Subsection (a) of this section becomes effective January 1,
42 2004. Subsection (b) of this section becomes effective October 1, 2003.

43 **SECTION 84.5.** Section 3 of S.L. 2003-241 reads as rewritten:

1 "SECTION 3.(a) This act applies only the City of Kings Mountain and does not
2 affect the statutory authority of the City of Shelby to annex property in accordance with
3 Chapter 160A.

4 SECTION 3.(b) This act is effective when it becomes law."

5 SECTION 85. Section 2.2(a) of S.L. 2003-284 reads as rewritten:

6 "SECTION 2.2.(a) The General Fund availability used in developing the
7 2003-2005 biennial budget is shown below:

	FY 2003-2004	FY 2004-2005
8 ...		
9 ...		
10 Adjustments to Availability: 2003 Session		
11 ...		
12 Attorney General Settlement Funds	10,000,000	0
13 Conflicts of Interest Global Settlement	10,000,000	0
14 ..."		

15 SECTION 86. Section 3.1 of S.L. 2003-284 reads as rewritten:

16 "SECTION 3.1. Appropriations from the State Highway Fund for the maintenance
17 and operation of the Department of Transportation, and for other purposes as
18 enumerated, are made for the biennium ending June 30, 2005, according to the
19 following schedule:

	2003-2004	2004-2005
21 Current Operations – Highway Fund		
22		
23 (1) Transportation Admin. (84210)	\$72,776,692	\$72,898,916
24 (2) Transportation Operations (84220)	28,190,393	28,150,605
25 (3) Transportation Programs (84230)		
26 State Construction		
27 Secondary	89,600,000	90,590,000
28 Urban	28,000,000	14,000,000
29		<u>28,000,000</u>
30 Public Access	2,000,000	2,000,000
31 Spot Safety	9,100,000	9,100,000
32 Contingency	15,000,000	10,000,000
33 Federal Aid Match	4,160,000	4,280,000
34 Maintenance	582,507,482	573,436,154
35 Asphalt Plant/OSHA	425,000	425,000
36 Capital	-	-
37 Ferry Operations	19,677,283	19,677,283
38 Aid to Municipalities	89,600,000	90,590,000
39 Rail	15,090,919	15,531,153
40 Public Transit	79,705,266	80,302,926
41 (4) Governor's Highway Safety (84240)	292,449	293,118
42 (5) Transportation Regulation (84260)	102,032,933	102,896,913
43 (6) Reserves, Transfers, Other Agencies (84270)	214,626,257	217,352,347
44 TOTAL	\$1,352,784,674	\$1,331,524,415

\$1,345,524,415"

SECTION 87. Section 6.3(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 6.3.(b)** ~~The~~ Except as provided in G.S. 116-30.1 through G.S. 116-30.4, the Office of State Budget and Management shall report the necessary adjustments to the General Assembly no later than 10 days after the convening of the 2004 Regular Session of the 2003 General Assembly. The Director of the Budget shall include the adjustments prepared in accordance with subsection (a) of this section in the recommended adjustments to the authorized budget for the 2004-2005 fiscal year."

SECTION 87.5. Section 7.36 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.36.** ~~The State Board of Education~~ Education, in consultation with the State Board of Community Colleges and the Board of Governors of The University of North Carolina, shall study the issue of weighted grades for high school students who take university and community college courses. The State Board of Education shall report the results of the study and its recommendations on the issue to the Joint Legislative Education Oversight Committee by December 15, 2003."

SECTION 88. Section 7.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.5.(a)** ~~Funds in the Reserve for Experience Step Increase for Teachers and Principals in Public Schools shall be used for experience step increases for employees of schools operated by a local board of education, the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention who are paid on the teacher salary schedule or the principal and assistant principal salary schedule.~~

7.5.(b) Effective July 1, 2003, any permanent certified personnel employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of experience shall receive a one-time bonus equivalent to the average increase of the 26 to 29 year steps. Effective July 1, 2003, any permanent personnel employed on July 1, 2003, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus."

SECTION 89. Section 10.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 10.5.(a)** The Department of Health and Human Services may administer the "Senior Cares" prescription drug access program approved by the Health and Wellness Trust Fund Commission and funded from the Health and Wellness Trust Fund.

"**SECTION 10.5.(b)** The Department of Health and Human Services may apply to the Center for Medicare and Medicaid Services (CMS) for a Medicaid waiver under section 1115 of the Social Security Act to provide federal matching funds for limited prescription drug and insulin coverage, prescription assistance, and assistance in accessing primary care for elderly persons. The waiver may provide a prescription drug benefit for eligible individuals each benefit year. The waiver may also provide for co-payments for generic drugs and higher co-payments for brand-name drugs. Eligible individuals may include persons who:

- 1 (1) Are 65 years of age or older;
- 2 (2) Are ineligible for Medicaid prescription drug and insulin coverage;
- 3 (3) Are without coverage for prescription drugs or insulin under other
- 4 public or private health insurance; and
- 5 (4) Have a family income that is two hundred percent (200%) or less of
- 6 the federal poverty level.

7 "SECTION 10.5.(c) Funds previously allocated by the Health and Wellness Trust
8 Fund Commission for Senior Care, as reflected in the Memorandum of Understanding
9 with the Department of Health and Human Services dated May 14, 2002, and the funds
10 allocated by the Commission for the medication management and prescription
11 assistance programs shall be used as the required State and local match for the waiver.

12 "SECTION 10.5.(d) The administration of the Senior Care Program by the
13 Department of Health and Human Services, as authorized in Section 10.5 of S.L.
14 2003-284, shall include eligibility determination.

15 "SECTION 10.5.(e) The Department of Health and Human Services shall
16 authorize, within allocations made for this purpose, payments for Senior Care, as
17 allowed under the CMS Senior Care Program waiver.

18 "SECTION 10.5.(f) This section is effective when this act becomes law and expires
19 upon the expiration of the CMS waiver or at the time funds for the Program are
20 terminated, whichever occurs first."

21 **SECTION 89.5.** S.L. 2003-284 is amended by adding a new section
22 following Section 10.8F to read:

23 **"CHILD FATALITY TASK FORCE ADMINISTRATIVE SUPPORT**

24 **SECTION 10.8G.** The Department of Health and Human Services shall use
25 existing resources to continue to provide administrative support for the North Carolina
26 Child Fatality Task Force."

27 **SECTION 90.** S.L. 2003-284 is amended by adding a new section following
28 Section 10A.1 to read:

29 **"MAINTENANCE MECHANIC POSITION FOR DEPARTMENT OF**
30 **AGRICULTURE AND CONSUMER SERVICES**

31 **SECTION 10A.2.(a)** Of the funds appropriated in this act to the Department
32 of Agriculture and Consumer Services, the sum of twenty-seven thousand eight hundred
33 eighty dollars (\$27,880) for the 2003-2004 fiscal year may be used to establish and
34 support one Maintenance Mechanic position at the Oxford Research Station and the sum
35 of thirty-seven thousand one hundred seventy-three dollars (\$37,173) for the 2004-2005
36 fiscal year may be used to continue and support the Maintenance Mechanic position at
37 the Oxford Research Station.

38 **SECTION 10A.2.(b)** This section becomes effective October 1, 2003."

39 **SECTION 90.5.** S.L. 2003-284 is amended by adding a new section
40 following Section 10A.2, as enacted in Section 90 of this act, to read:

41 **"DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES GRAPE**
42 **GROWERS FUNDS DO NOT REVERT**

43 **SECTION 10A.3.(a)** Pursuant to G.S. 105-113.81A, funds credited to the
44 Department of Agriculture and Consumer Services for the North Carolina Grape

1 Growers Council for the 2002-2003 fiscal year shall not revert to the General Fund but
2 shall remain available to the Council.

3 **SECTION 10A.3.(b)** This section becomes effective June 30, 2003."

4 **SECTION 91.** Section 11.4(e) of S.L. 2003-284 reads as rewritten:

5 "SECTION 11.4.(e) It is the intent of the General Assembly that the funds under
6 ~~subsection (e)~~ subsection (d) of this section are recurring funds."

7 **SECTION 91.5.** Section 12.6C(e) of S.L. 2003-284 reads as rewritten:

8 "SECTION 12.6C.(e) The Commission may retain additional fees as authorized by
9 subsection (a) of this section only in the 2003-2005 fiscal biennium and ~~shall not retain~~
10 ~~any additional fees after the 2003-2005 fiscal biennium.~~ the 2005-2007 fiscal biennium."

11 **SECTION 91.7.** Section 12.11(d)(1)b. of S.L. 2003-284 reads as rewritten:

12 "b. \$197,410 in each fiscal year for direct grants to local
13 community development corporations that have not previously
14 received State funds; ~~and~~ funds or are in the start-up phase; and"

15 **SECTION 91.8.** S.L. 2003-284 is amended by adding a new section
16 following Section 12.11 to read:

17 "**WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.**

18 **SECTION 12.11A.** Of the funds appropriated in this act to the Rural
19 Economic Development Center, the sum of seventy-five thousand dollars (\$75,000) for
20 the fiscal year 2003-2004 shall be transferred to Western North Carolina Development
21 Association, Inc. no later than July 31, 2003."

22 **SECTION 92.** Section 17.1 of S.L. 2003-284 is amended by adding the
23 following new subsection to read:

24 "SECTION 17.1.(d) This section becomes effective October 1, 2003."

25 **SECTION 92.5.** Section 21.2(a)(5) of S.L. 2003-284 is rewritten to read:

26 "(5) ITS shall make adjustments of excess revenue, based on
27 IRMC-approved rates, over allowable costs."

28 **SECTION 93.(a)** Section 23.1 of S.L. 2003-284 is repealed.

29 **SECTION 93.(b)** Section 22.6 of S.L. 2002-126 reads as rewritten:

30 "SECTION 22.6.(a) The Department of Revenue may draw up to ~~seven million~~
31 ~~eight hundred forty thousand five hundred thirteen dollars (\$7,840,513)~~ three million
32 dollars (\$3,000,000) through June 30, ~~2004, 2005,~~ from the collection assistance fee
33 account created in G.S. 105-243.1 in order to pay for the costs of establishing and
34 equipping a central taxpayer telecommunications service center for collections and
35 assistance and for the costs associated with aligning local field offices with the new
36 center. The Department of Revenue shall use the funds drawn during the 2004-2005
37 fiscal year to support information technology costs.

38 "~~SECTION 22.6.(b) The Secretary of Revenue shall consult with the Joint~~
39 ~~Legislative Commission on Governmental Operations on a detailed plan with proposed~~
40 ~~costs before any funds may be expended for these purposes. This plan must be~~
41 ~~presented by October 31, 2002.~~

42 "SECTION 22.6.(c) Beginning January 1, 2003, and ending on the second quarter
43 following completion of the projects described in subsection (a) of this section, the
44 Department of Revenue must report quarterly to the Joint Legislative Commission on

1 Governmental Operations on the use of the funds and the progress of establishing the
2 new center.

3 "SECTION 22.6.(d) There is appropriated from the collection assistance fee
4 account created in G.S. 105-243.1 to the Department of Revenue the sum of one million
5 six hundred twenty-two thousand eight hundred ninety-six dollars (\$1,622,896) for the
6 2003-2004 fiscal year and the sum of two million one hundred fifty-four thousand five
7 hundred ninety-three dollars (\$2,154,593) for the 2004-2005 fiscal year to pay for the
8 costs of establishing and equipping a central taxpayer telecommunications service
9 center for collections and assistance and for the costs associated with aligning local field
10 offices with the new center."

11 **SECTION 94.** Section 29.21 of S.L. 2003-284 reads as rewritten:

12 **"SECTION 29.21.** The Joint Legislative Transportation Oversight Committee shall
13 contract with an independent consultant to study the project delivery process of the
14 Department of Transportation. The study shall examine all aspects of the project
15 delivery process, including (i) Department of Transportation planning, design, and
16 contract letting procedures, and (ii) the effect of other resource and regulatory agency
17 decisions and processes on the project delivery process. The study shall identify all
18 significant causes of delay in the project delivery process, and suggest specific, practical
19 solutions to decrease the time it takes to deliver a transportation project from inception
20 to completion. The Committee shall endeavor to complete this study by April 1, 2003-
21 2004. The provisions of G.S. 120-32.02 shall apply to any contract with a consultant
22 pursuant to this section."

23 **SECTION 95.** Section 30.3 of S.L. 2003-284 reads as rewritten:

24 **"SECTION 30.3.** The annual salaries, payable monthly, for the 2003-2004 and
25 2004-2005 fiscal years for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	\$92,946
State Controller	130,078
Commissioner of Motor Vehicles	92,946
Commissioner of Banks	104,523
Chairman, Employment Security Commission	129,913
State Personnel Director	102,119
Chairman, Parole Commission	84,871
Members of the Parole Commission	78,356
Chairman, Utilities Commission	116,405
Members of the Utilities Commission	104,523
Executive Director, Agency for Public Telecommunications	78,356
General Manager, Ports Railway Commission	70,755
Director, Museum of Art	95,240
Executive Director, North Carolina Housing Finance Agency	115,031
Executive Director, North Carolina Agricultural Finance Authority	90,470
State Chief Information Officer	130,000"

43 **SECTION 96.(a)** Section 30.20.(k) of S.L. 2003-284 is repealed.

1 **SECTION 96.(b)** G.S. 135-106(a), as rewritten by Section 30.20.(l) of S.L.
2 2003-284, reads as rewritten:

3 "(a) Upon the application of a beneficiary or participant or of his legal
4 representative or any person deemed by the Board of Trustees to represent the
5 participant or beneficiary, any beneficiary or participant who has had five or more years
6 of membership service may receive long-term disability benefits from the Plan upon
7 approval by the Board of Trustees, commencing on the first day succeeding the
8 conclusion of the short-term disability period provided for in G.S. 135-105, provided
9 the beneficiary or participant makes application for such benefit within 180 days after
10 the short-term disability period ceases, after salary continuation payments cease, or after
11 monthly payments for Workers' Compensation cease, whichever is later; Provided, that
12 the beneficiary or participant withdraws from active service by terminating employment
13 as a teacher or State employee; Provided, that the Medical Board shall certify that such
14 beneficiary or participant is unable to perform any occupation ~~for which the beneficiary~~
15 ~~or participant is reasonably qualified for by~~ or employment commensurate to the
16 beneficiary's or participant's education, training or experience, which is available in the
17 same commuting area for State employees or within the same local school
18 administrative unit for school personnel, without an adverse impact on the beneficiary's
19 or participant's career status, and in which the beneficiary or participant can be expected
20 to earn not less than sixty-five percent (65%) of that beneficiary's or participant's
21 predisability earnings, that such incapacity was incurred at the time of active
22 employment and has been continuous thereafter, that such incapacity is likely to be
23 permanent; Provided further that the Medical Board shall not certify any beneficiary or
24 participant as disabled who is in receipt of any payments on account of the same
25 incapacity which existed when the beneficiary first established membership in the
26 Retirement System. The Board of Trustees may extend this 180-day filing requirement
27 upon receipt of clear and convincing evidence that application was delayed through no
28 fault of the disabled beneficiary or participant and was delayed due to the employers'
29 miscalculation of the end of the 180-day filing period. However, in no instance shall the
30 filing period be extended beyond an additional 180 days.

31 The Board of Trustees may require each beneficiary who becomes eligible to receive
32 a long-term disability benefit to have an annual medical review or examination for the
33 first five years and thereafter once every three years after the commencement of benefits
34 under this section. However, the Board of Trustees may require more frequent
35 examinations and upon the advice of the Medical Board shall determine which cases
36 require such examination. Should any beneficiary refuse to submit to any examination
37 required by this subsection or by the Medical Board, his long-term disability benefit
38 shall be suspended until he submits to an examination, and should his refusal last for
39 one year, his benefit may be terminated by the Board of Trustees. If the Medical Board
40 finds that a beneficiary is no longer unable to perform any occupation for which the
41 beneficiary or participant is reasonably qualified for by training or experience, the
42 Department of State Treasurer and the Board of Trustees may terminate the
43 beneficiary's long-term disability benefits effective on the last day of the month in
44 which the Medical Board certifies that the beneficiary is no longer disabled.

1 As to the requirement of five years of membership service, any participant or
2 beneficiary who does not have five years of membership service within the 96 calendar
3 months prior to conclusion of the short-term disability period or cessation of salary
4 continuation payments, whichever is later, shall not be eligible for long-term disability
5 benefits.

6 Notwithstanding the requirement that the incapacity was incurred at the time of
7 active employment, any participant who becomes disabled while on an employer
8 approved leave of absence and who is eligible for and in receipt of temporary total
9 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97
10 of the General Statutes, will be eligible for all benefits provided under this Article."

11 **SECTION 96.(c)** Subsection (a) of this section becomes effective July 1,
12 2003. Subsection (b) of this section becomes effective July 1, 2004, and applies only to
13 persons who are not vested in the disability plan in question on July 1, 2004.

14 **SECTION 97.** Section 45.12 of S.L. 2003-284 reads as rewritten:

15 "**SECTION 45.12.** Sections 45.2 through 45.5, Section 45.6, and Sections ~~45.8-45.9~~
16 through 45.10 of this act become effective July 15, 2003. Sections 45.6A, 45.7, 45.8,
17 and 45.11 become effective October 1, 2003. Section 45.5A and Section 45.6B become
18 effective January 1, 2004. The remainder of this part is effective when it becomes law."

19 **SECTION 98.** Section 46.1 of S.L. 2003-284 reads as rewritten:

20 "**SECTION 46.1.** Repair and Renovation. – This section authorizes the issuance or
21 incurrence of special indebtedness in a maximum aggregate principal amount of three
22 hundred million dollars (\$300,000,000) to be used only in accordance with this section
23 for the repair and renovation of State facilities and related infrastructure that are
24 supported from the General Fund.

25 Proceeds of the Repair and Renovation special indebtedness shall be used only for
26 the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the
27 Repairs and Renovations Reserve ~~Account~~ Account and Section 31.5 of this act, as
28 provided in this section.

29 Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of
30 the Budget shall use the Repair and Renovations funds only for repairs and renovations
31 that have been approved by an act of the General Assembly or, if the General Assembly
32 is not in session, for repairs and renovations about which the Director of the Budget has
33 first consulted with the Joint Legislative Commission on Governmental Operations
34 under G.S. 143-15.3A(c).

35 For debt to be issued during the 2003-2004 fiscal year, the Director of the Budget
36 shall select repair and renovation projects as follows: an amount equal to forty-six
37 percent (46%) of the debt shall be issued for projects identified by the Board of
38 Governors of The University of North Carolina in accordance with Section 31.5 of this
39 act and fifty-four percent (54%) shall be issued for projects identified by the Office of
40 State Budget and Management in accordance with Section 31.5 of this act.

41 The Director of the Budget shall direct the State Treasurer to carry out the financing
42 for repair and renovation projects selected pursuant to this section. Special indebtedness
43 authorized by this section shall be issued or incurred only in accordance with Article 9
44 of Chapter 142 of the General Statutes, as enacted by this part."

1 **SECTION 99.** The lead-in language of Section 46.2 of S.L. 2003-284 reads
2 as rewritten:

3 **"SECTION 46.2.** Article 9 of Chapter 142 of the General Statutes, as enacted by
4 S.L. 2003-314, is rewritten to read:"

5 **SECTION 100.** Section 3 of S.L. 2003-300 reads as rewritten:

6 **"SECTION 3.** Waiver of Deadlines, Fees, and Penalties. – Except as prohibited by
7 the Constitution, the Governor may extend deadlines and waive penalties or fees as is
8 necessary to alleviate hardship created for deployed military personnel serving in
9 Operation Iraqi Freedom. This authority includes the authority to do all of the
10 following:

- 11 (1) Extend for up to 90 days from the end of deployment the validity of a
12 permanent or temporary drivers license issued under G.S. 20-7 to
13 deployed military personnel.
- 14 (2) Waive civil penalties and restoration fees under G.S. 20-309 for any
15 deployed military personnel whose motor vehicle liability insurance
16 lapsed during the period of deployment or within 90 days after the
17 military member returned to North Carolina if the military member
18 certifies to the Division of Motor Vehicles that the motor vehicle was
19 not driven on the highway by anyone during the period in which the
20 motor vehicle was uninsured and that the owner now has liability
21 insurance on the motor vehicle.
- 22 (3) Allow up to 90 days from the end of deployment for any deployed
23 military personnel to renew ~~a license as defined in G.S. 93B-1, an~~
24 occupational license. During the period of deployment or active duty
25 and until the expiration of the 90-day period provided for in this
26 subdivision, expired occupational licenses that are within the scope of
27 this act remain valid, as if they had not expired. For the purposes of
28 this section, the term "occupational license" means any license (other
29 than a privilege license), certificate, or other evidence of qualification
30 that an individual is required to obtain before the individual may
31 engage in or represent himself or herself to be a member of a particular
32 profession or occupation.
- 33 (4) Require that any renewal fee applicable to the renewal of a license
34 under subdivision (3) of this section be prorated over the period
35 covered by the license and reduced in proportion to the period of time
36 that the licensee was deployed outside the State."

37 **SECTION 101.** Since S.L. 2003-315 has enacted the same matter, if House
38 Bill 47, 2003 Regular Session, becomes law, then Section 2 of House Bill 47 is
39 repealed, and G.S. 145-19, as enacted by House Bill 47, is recodified as G.S. 145-20.

40 **SECTION 101.4.** If House Bill 1028, 2003 Regular Session, becomes law,
41 then G.S. 113A-115.1(b), as enacted by Section 3 of House Bill 1028, reads as
42 rewritten:

43 "(b) No person shall construct a permanent erosion control structure in an ocean
44 shoreline. The Commission shall not permit the construction of a temporary erosion

1 control structure that consists of anything other than sandbags in an ocean shoreline.
2 This section shall not apply to (i) any permanent erosion control structure that is
3 approved pursuant to an exception set out in a rule adopted by the Commission prior to
4 1 July 2003 or (ii) any permanent erosion control structure that was originally
5 constructed prior to 1 July 1974 and that has since been in continuous use to protect an
6 inlet that is maintained for navigation. This section shall not be construed to limit the
7 authority of the Commission to adopt rules to designate or protect areas of
8 environmental concern, to govern the use of sandbags, or to govern the use of erosion
9 ~~coastal control~~ structures in estuarine shorelines."

10 **SECTION 101.5.** If Senate Bill 357, 2003 Regular Session, becomes law,
11 then Section 1 of Senate Bill 357 reads as rewritten:

12 "SECTION 1. Mayland Community College may, with prior approval of the State
13 Board of Community Colleges and notwithstanding G.S. 115D-15 or Article 12 of
14 Chapter 160A of the General Statutes:

- 15 (1) Notwithstanding the provisions of G.S. 160A-272, lease the former
16 Lexington Furniture Building for terms it deems appropriate ~~Lease at~~
17 ~~private sale the former Lexington Furniture Building for such~~
18 ~~consideration as it deems sufficient; and~~
- 19 (2) Sell at private sale the former Hampshire Hosiery Building to Mitchell
20 County Development Foundation, Inc., for such consideration as it
21 deems sufficient."

22 **SECTION 102.** If Senate Bill 236, 2003 Regular Session, becomes law,
23 Section 12 of that bill reads as rewritten:

24 "SECTION 12. Parts 1 and 8 of this act are effective for taxable years beginning on
25 or after January 1, 2003. Part 5 of this act becomes effective July 1, 2003. ~~Part 9 of this~~
26 ~~act is effective for taxable years beginning on or after January 1, 2003, and shall expire~~
27 ~~for taxable years beginning on or after January 1, 2005.~~ Part 10 of this act becomes
28 effective January 1, 2004. The remainder of this act is effective when it becomes law."

29 **SECTION 103.** If Senate Bill 668, 2003 Regular Session, becomes law, then
30 G.S. 18B-1001.1(b), as enacted by that law, reads as rewritten:

31 "(b) A wine shipper permittee that ships to addresses in the State more than 1,000
32 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell
33 the products of the wine shipper permittee under Article 12 of this Chapter if the wine
34 shipper permittee is contacted by a wholesaler that wishes to sell the products of the
35 wine shipper permittee. This provision shall not be construed to require the wine shipper
36 permittee to appoint the wholesaler that originally contacted the wine shipper permittee.
37 Wine purchased by a resident of the State at the premises of the wine shipper permittee
38 and shipped to an address in the State under G.S. ~~18B-109(b)~~18B-109(d) shall not be
39 included in calculating the total of 1,000 cases per year."

40 **SECTION 104.(a)** If Senate Bill 919, 2003 Regular Session, becomes law,
41 G.S. 50B-3.1(h) as enacted by that law, reads as rewritten:

42 "(h) Disposal of Firearms. – If the defendant does not file a motion requesting the
43 return of any firearms, ammunition, or permits surrendered within the time period
44 prescribed by this section, if the court determines that the defendant is precluded from

1 regaining possession of any firearms, ammunition, or permits surrendered, or if the
2 defendant or third-party owner fails to remit all fees owed for the storage of the firearms
3 or ammunition within 30 days of the entry of the order granting the return of the
4 firearms, ammunition, or permits, the sheriff who has control of the firearms,
5 ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to
6 the court for an order of disposition of the firearms, ammunition, or permits. The judge,
7 after a hearing, may order the disposition of the firearms, ammunition, or permits in one
8 or more of the ways authorized by law, including subdivision (4), (4a), (5), or (6) of
9 G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after
10 deducting any costs associated with the sale, and in accordance with all applicable State
11 and federal law, shall be provided to the defendant, if requested by the defendant by
12 motion made before the hearing or at the hearing and if ordered by the judge."

13 **SECTION 104.(b)** This section becomes effective December 1, 2003, and
14 applies to offenses committed on or after that date.

15 **SECTION 105.** Wherever the term "Public Campaign Financing Fund"
16 appears in Chapter 105 or Chapter 163 of the General Statutes, in any other chapter of
17 the General Statutes, or in any act of the General Assembly, the term is changed to read
18 "Judicial Elections Fund."

19 **SECTION 106.** Notwithstanding any other provision of law, Fayetteville
20 State University may retain the proceeds from the sale of the existing chancellor's
21 residence. Fayetteville State University may use the proceeds from the sale of the
22 existing chancellor's residence, and any other nonappropriated funds available, to
23 construct a new chancellor's residence. Proceeds from the sale not used for that purpose
24 shall revert.

25 **SECTION 107.(a)** If by 10:00 A.M. on February 9, 2004, an act to redistrict
26 the State House of Representatives or the State Senate has not been approved under
27 section 5 of the Voting Rights Act of 1965 or is otherwise prohibited by law from being
28 implemented, the State Board of Elections shall postpone the primary election for all
29 offices in G.S. 163-1 until a date the State Board determines to be fair to all parties,
30 potential candidates, and voters. The State Board shall make its decision as soon as
31 practical, taking into account the likelihood of receiving a final approval of any pending
32 redistricting plan.

33 **SECTION 107.(b)** If the filing period or primary election or both are
34 postponed under this section, the State Board of Elections shall adopt rules for the
35 implementation of the primary election schedule. Adoption of those rules is not subject
36 to Chapter 150B of the General Statutes. Those rules shall include a postponed filing
37 period and other necessary parts of the election schedule. The rules shall include reset
38 dates for absentee balloting that shall as nearly as practical provide the same amount of
39 time for voters and election officials set forth in Article 20 of Chapter 163 of the
40 General Statutes. The State Board shall, as soon as practical, distribute its rules,
41 including a Revised Primary Timetable, to county boards of elections.

42 **SECTION 107.(c)** The State Board of Elections shall be governed by the
43 following limitations:

- 1 (1) Any postponement of the candidate filing period or the primary shall
2 apply to all offices in G.S. 163-1 whose primary elections are regularly
3 scheduled on primary day, so that there is one candidate filing period
4 for all those offices and one primary election for all those offices. The
5 postponement shall also apply to any elections to local office held on
6 that date (such as elections for boards of education under G.S.
7 115C-37) and the filing period for those offices.
- 8 (2) The State Board of Elections does not have the authority to dispense
9 with a second primary. The State Board shall provide for a second
10 primary in its schedule to any candidate entitled to call for a second
11 primary under the provisions of G.S. 163-111.
- 12 (3) The State Board shall set a filing period no shorter than 10 business
13 days.
- 14 (4) Before making its decision to postpone a filing period or primary
15 election under this section, the State Board of Elections shall consult
16 with the President Pro Tempore of the Senate, the Speakers of the
17 House of Representatives, and the leaders of both political parties in
18 the House and Senate.

19 **SECTION 107.(d)** If the primary election is postponed under subsection (a)
20 of this section, any local act for election of a board of education elected at the primary
21 which provides that persons elected shall take office in July of the year of the election is
22 modified for the 2004 election only to provide that the persons elected shall take office
23 in September of the year of the election.

24 **SECTION 107.(e)** For the 2004 primary election only, G.S. 163-112 shall be
25 applied by substituting "10 days" for "30 days" wherever it appears.

26 **SECTION 107.(f)** The provisions of this section apply during the 2004
27 election year only.

28 **SECTION 108.** The personnel reductions in the Department of Revenue, as
29 provided in Item #73 on page J32 of the Joint Conference Committee Report on the
30 Continuation, Expansion and Capital Budgets, June 28, 2003, are amended by deleting
31 "# 4784-0000-0076-639" and substituting "#4784-0000-0074-116."

32 **SECTION 109.(a)** The Department of Environment and Natural Resources
33 may identify positions in the Administrative Divisions and Regional Offices, in addition
34 to the operating costs in the Administrative Divisions and Regional Offices, to comply
35 with a reduction of two hundred thousand dollars (\$200,000) for the 2003-2004 fiscal
36 year and for the 2004-2005 fiscal year in operating support in the Administrative
37 Divisions and Regional Offices required by Section 2.1, S.L. 2003-284, as set forth in
38 the Joint Conference Committee Report on the Continuation, Expansion and Capital
39 Budgets. Notwithstanding G.S. 143-23 or G.S. 143-34.1, the Department of
40 Environment and Natural Resources may continue and support the positions identified
41 under this subsection from receipts rather than from its General Fund appropriation in
42 order to fulfill the reduction of two hundred thousand dollars (\$200,000) under this
43 subsection.

1 **SECTION 109.(b)** The Department of Environment and Natural Resources
2 may identify operating support reductions in the Division of Parks and Recreation, in
3 addition to reductions to seasonal staff in the Division of Parks and Recreation, to
4 comply with a reduction of one hundred forty-four thousand dollars (\$144,000) for the
5 2003-2004 fiscal year and for the 2004-2005 fiscal year in seasonal staff in the Division
6 of Parks and Recreation required by Section 2.1, S.L. 2003-284, as set forth in the Joint
7 Conference Committee Report on the Continuation, Expansion and Capital Budgets.

8 **SECTION 109.(c)** The Department of Environment and Natural Resources
9 shall report to the Joint Legislative Commission on Governmental Operations no later
10 than 30 days after the 2003 Regular Session of the 2003 General Assembly adjourns to
11 a date certain the specific line items from which the reductions under subsection (a) and
12 subsection (b) of this section were identified.

13 **SECTION 110.(a)** Construction of Cancer Center. – In accordance with
14 G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness
15 in a maximum aggregate principal amount of one hundred eighty million dollars
16 (\$180,000,000) to finance the cost of a new facility within the University of North
17 Carolina Health Care System that will allow for the growth and expansion of cancer
18 programs to replace the North Carolina Clinical Cancer Center. The special
19 indebtedness authorized by this section shall not be incurred prior to January 1, 2004.
20 Notwithstanding any other law, the University of North Carolina Health Care System
21 may use the design-build method of contracting for the Cancer Center without having to
22 formally bid the project, provided the University of North Carolina Health Care System
23 complies with G.S. 143-128.2. Notwithstanding G.S. 143-341(3) and G.S. 143-135.1,
24 with respect to the design, construction, or renovation of buildings, utilities, and other
25 property developments associated with the Cancer Center, the University of North
26 Carolina Health Care System shall:

- 27 (1) Conduct the fee negotiations for all design contracts and supervise the
28 letting of all construction and design contracts.
- 29 (2) Develop procedures to perform the duties of the Department of
30 Administration and the Director of the Office of State Construction
31 under G.S. 133-1.1(d) and G.S. 143-341(3).
- 32 (3) Develop procedures and reasonable limitations governing the use of
33 open-end design agreements, subject to G.S. 143-64.34 and the
34 approval of the State Building Commission.

35 **SECTION 110.(b)** Authorization. – The State, with the prior approval of the
36 State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the
37 General Statutes, is authorized to issue or incur special indebtedness in order to provide
38 funds to the State to be used, together with other available funds, to pay the cost of the
39 project described in this section, in an aggregate principal amount not to exceed one
40 hundred eighty million dollars (\$180,000,000).

41 **SECTION 110.(c)** Funds. – Notwithstanding G.S. 147-86.30 or any other
42 provision of law, unless the General Assembly otherwise provides for payment of the
43 debt service on the debt authorized in this section, the debt service shall be paid from

1 reserved funds in the Health and Wellness Trust Fund Reserve created pursuant to G.S.
2 147-86.30(c).

3 **SECTION 111.(b)** Notwithstanding G.S. 143-341(3) and G.S. 143-135.1,
4 with respect to the design, construction, or renovation of buildings, utilities, and other
5 property developments associated with the following projects:

6 (1) Constructing and equipping the main biomanufacturing training center
7 at North Carolina State University.

8 (2) Constructing and equipping a biomanufacturing research center at
9 North Carolina Central University.

10 (3) Constructing six additional regional biomanufacturing training centers
11 at regional community colleges, one in each of the remaining regional
12 economic development areas., the entity in charge shall:

13 (1) Conduct the fee negotiations for all design contracts and supervise the
14 letting of all construction and design contracts.

15 (2) Develop procedures to perform the duties of the Department of
16 Administration and the Director of the Office of State Construction
17 under G.S. 133-1.1(d) and G.S. 143-341(3).

18 (3) Develop procedures and reasonable limitations governing the use of
19 open-end design agreements, subject to G.S. 143-64.34 and the
20 approval of the State Building Commission.

21 **SECTION 111.(c)** Notwithstanding any other law, the entity in charge may
22 use the design-build method of contracting without having to formally bid the project,
23 provided the entity in charge complies with G.S. 143-128.2.

24 **SECTION 111.(d)** This section applies only to the construction of the
25 facilities listed in subsection (a) of this section.

26 **SECTION 112.** Funds appropriated in S.L. 2003-284 for Lumbee Memorial
27 Recognition shall not be paid to the Lumbee Tribe Self-Determination Commission but
28 shall be paid to the Lumbee Tribe of North Carolina.

29 **SECTION 113.** Unless otherwise provided, this act is effective when it
30 becomes law.