

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1225*
Judiciary I Committee Substitute Adopted 7/12/04

Short Title: 2004 Technical Corrections Act.

(Public)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

SECTION 1. G.S. 62-3 reads as rewritten:

"§ 62-3. Definitions.

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

...

(23) ...

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

1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;

- 1 2. Diverting, developing, pumping, impounding,
2 distributing or furnishing water to or for the public for
3 compensation, or operating a public sewerage system for
4 compensation; provided, however, that the term "public
5 utility" shall not include any person or company whose
6 sole operation consists of selling water to less than 15
7 residential customers, except that any person or company
8 which constructs a water system in a subdivision with
9 plans for 15 or more lots and which holds itself out by
10 contracts or other means at the time of said construction
11 to serve an area containing more than 15 residential
12 building lots shall be a public utility at the time of such
13 planning or holding out to serve such 15 or more
14 building lots, without regard to the number of actual
15 customers connected;
- 16 3. Transporting persons or household goods by street,
17 suburban or interurban bus for the public for
18 compensation;
- 19 4. Transporting persons or household goods by motor
20 vehicles or any other form of transportation for the
21 public for compensation, except motor carriers exempted
22 in G.S. 62-260, carriers by rail, and carriers by air;
- 23 5. Transporting or conveying gas, crude oil or other fluid
24 substance by pipeline for the public for compensation;
- 25 6. Conveying or transmitting messages or communications
26 by telephone or telegraph, or any other means of
27 transmission, where such service is offered to the public
28 for compensation.
- 29 b. The term "public utility" shall for rate-making purposes include
30 any person producing, generating or furnishing any of the
31 foregoing services to another person for distribution to or for
32 the public for compensation.
- 33 c. The term "public utility" shall include all persons affiliated
34 through stock ownership with a public utility doing business in
35 this State as parent corporation or subsidiary corporation as
36 defined in G.S. 55-2 to such an extent that the Commission
37 shall find that such affiliation has an effect on the rates or
38 service of such public utility.
- 39 d. The term "public utility," except as otherwise expressly
40 provided in this Chapter, shall not include a municipality, an
41 authority organized under the North Carolina Water and Sewer
42 Authorities Act, electric or telephone membership corporation;
43 or any person not otherwise a public utility who furnishes such
44 service or commodity only to himself, his employees or tenants

1 when such service or commodity is not resold to or used by
2 others; provided, however, that any person other than a
3 nonprofit organization serving only its members, who
4 distributes or provides utility service to his employees or
5 tenants by individual meters or by other coin-operated devices
6 with a charge for metered or coin-operated utility service shall
7 be a public utility within the definition and meaning of this
8 Chapter with respect to the regulation of rates and provisions of
9 service rendered through such meter or coin-operated device
10 imposing such separate metered utility charge. If any person
11 conducting a public utility shall also conduct any enterprise not
12 a public utility, such enterprise is not subject to the provisions
13 of this Chapter. A water or sewer system owned by a
14 homeowners' association that provides water or sewer service
15 only to members or leaseholds of members is not subject to the
16 provisions of this Chapter.

17 e. The term "public utility" shall include the University of North
18 Carolina insofar as said University supplies telephone service,
19 electricity or water to the public for compensation from the
20 University Enterprises defined in G.S. 116-41.1(9).

21 f. The term "public utility" shall include the Town of Pineville
22 insofar as said town supplies telephone services to the public
23 for compensation. The territory to be served by the Town of
24 Pineville in furnishing telephone services, subject to the Public
25 Utilities Act, shall include the town limits as they exist on May
26 8, 1973, and shall also include the area proposed to be annexed
27 under the town's ordinance adopted May 3, 1971, until January
28 1, 1975.

29 g. The term "public utility" shall not include a hotel, motel, time
30 share or condominium complex operated primarily to serve
31 transient occupants, which imposes charges to occupants for
32 local, long-distance, or wide area telecommunication services
33 when such calls are completed through the use of facilities
34 provided by a public utility, and provided further that the local
35 services received are rated in accordance with the provisions of
36 G.S. 62-110(d) and the applicable charges for telephone calls
37 are prominently displayed in each area where occupant rooms
38 are located.

39 h. The term "public utility" shall not include the resale of
40 electricity by (i) a campground operated primarily to serve
41 transient occupants, or (ii) a marina; provided that (i) the
42 campground or marina charges no more than the actual cost of
43 the electricity supplied to it, (ii) the amount of electricity used
44 by each campsite or marina slip occupant is measured by an

1 individual metering device, (iii) the applicable rates are
 2 prominently displayed at or near each campsite or marina slip,
 3 and (iv) the campground or marina only resells electricity to
 4 campsite or marina slip occupants.

5 i. The term "public utility" shall not include the State, the Office
 6 of ~~the State Controller, Information Technology Services,~~ or the
 7 Microelectronics Center of North Carolina in the provision or
 8 sharing of switched broadband telecommunications services
 9 with non-State entities or organizations of the kind or type set
 10 forth in G.S. 143B-426.39.

11 j. The term "public utility" shall not include any person, not
 12 otherwise a public utility, conveying or transmitting messages
 13 or communications by mobile radio communications service.
 14 Mobile radio communications service includes one-way or
 15 two-way radio service provided to mobile or fixed stations or
 16 receivers using mobile radio service frequencies.

17 k. The term "public utility" shall not include a regional natural gas
 18 district organized and operated pursuant to Article 28 of
 19 Chapter 160A of the General Statutes.

20"

21 **SECTION 2.** G.S. 111-52 reads as rewritten:

22 **"§ 111-52. Profits from Highway Vending Fund.**

23 Profits generated by highway vending locations as of June 30, 1992, and deposited
 24 in a special fund in accordance with the ~~Administrative Policies and Procedures Manual~~
 25 policies of the Office of the State Controller shall be reserved for the construction and
 26 maintenance of highway vending facility projects."

27 **SECTION 3.** G.S. 113-307.1(b) reads as rewritten:

28 "(b) The State of North Carolina hereby assents to the provisions of the act of
 29 Congress entitled "An act to provide that the United States shall aid the states in wildlife
 30 restoration projects, and for other purposes," approved September 2, 1937 (Public Law
 31 415, 75th Congress), and the Wildlife Resources Commission is hereby authorized,
 32 empowered, and directed to perform such acts as may be necessary to the conduct and
 33 establishment of cooperative wildlife restoration projects, as defined in said act of
 34 Congress, in compliance with said act and rules and regulations promulgated by the
 35 Secretary of ~~Agriculture~~ the Interior thereunder; and no funds accruing to the State of
 36 North Carolina from license fees paid by hunters shall be diverted for any other purpose
 37 than the protection and propagation of game and wildlife in North Carolina and
 38 administration of the laws enacted for such purposes, which laws are and shall be
 39 administered by the Wildlife Resources Commission."

40 **SECTION 4.** G.S. 115C-102.5(e) reads as rewritten:

41 "(e) The Department of Public Instruction, the Department of Community
 42 Colleges, and the Office of ~~the State Controller~~ Information Technology Services shall
 43 provide requested professional and clerical staff to the Commission. The Commission
 44 may also employ professional and clerical staff and may hire outside consultants to

1 assist it in its work. The Commission shall use an outside consultant to perform a
2 requirements analysis for learning and instructional management technologies on a
3 statewide basis that is based on information gathered from each local school
4 administrative unit and that considers the needs of teachers, students, and
5 administrators."
6

7 PART II. OTHER CHANGES

8

9 **SECTION 5.(a)** G.S. 1A-1, Rule 5(d), reads as rewritten:

10 "(d) Filing. – All pleadings subsequent to the complaint shall be filed with the
11 court. All other papers required to be served upon a party, including requests for
12 admissions, shall be filed with the court either before service or within five days
13 thereafter, except that subpoenas, objections to subpoenas under Rule 45(c)(3),
14 depositions, interrogatories, requests for documents, and answers and responses to those
15 requests may not be filed unless ordered by the court or until used in the proceeding.
16 Briefs and memoranda provided to the court may not be filed with the clerk of the court
17 unless ordered by the court. The party taking a deposition or obtaining material through
18 discovery is responsible for its preservation and delivery to the court if needed or so
19 ordered. With respect to all pleadings and other papers as to which service and return
20 has not been made in the manner provided in Rule 4, proof of service shall be made by
21 filing with the court a certificate either by the attorney or the party that the paper was
22 served in the manner prescribed by this rule, or a certificate of acceptance of service by
23 the attorney or the party to be served. Such certificate shall show the date and method of
24 service or the date of acceptance of service."

25 **SECTION 5.(b)** This section becomes effective October 1, 2004, and
26 applies to all pending cases and all cases filed on or after that date.

27 **SECTION 6.** G.S. 10A-16(d) reads as rewritten:

28 "(d) This section applies to notarial acts performed on or before ~~March 1,~~
29 ~~2003.~~ February 1, 2004."

30 **SECTION 7.** G.S. 14-33(d) reads as rewritten:

31 "(d) Any person who, in the course of an assault, assault and battery, or affray,
32 inflicts serious injury upon another person, or uses a deadly weapon, in violation of
33 subdivision (c)(1) of this section, on a person with whom the person has a personal
34 relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A
35 person convicted under this subsection, who is sentenced to a community punishment,
36 shall be placed on supervised probation in addition to any other punishment imposed by
37 the court.

38 A person committing a second or subsequent violation of this subsection shall be
39 sentenced to an active punishment of no less than 30 days in addition to any other
40 punishment imposed by the court.

41 The following definitions apply to this subsection:

42 (1) "Personal relationship" is as defined in G.S. 50B-1(b).

43 (2) "In the presence of a minor" means that the minor was in a position to
44 have observed the assault.

(3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault."

SECTION 8. G.S. 18B-103 is amended by adding a new subdivision to read:

"(11) The delivery, possession, or consumption of alcoholic beverages under the direct supervision of an instructor during a class that is part of an established curriculum at an accredited college or university, including delivery to or possession or consumption by a student who is less than 21 years of age, when the student is required to taste or imbibe the alcoholic beverage during a class conducted pursuant to the curriculum."

SECTION 9. G.S. 18B-1006(m)(2) reads as rewritten:

"(2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to ~~G.S. 18B-1006(k)(5)~~. G.S. 18B-1006(k). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet ~~any~~ all of the following requirements:

- a. Located within one mile of any interstate highway interchange in that ~~county~~ county;
- b. Located within one mile of an establishment issued a permit under ~~G.S. 18B-1006(k)(5)~~. G.S. 18B-1006(k); and
- c. Is, or is located within, one-quarter mile of a hotel with 70 or more rooms."

SECTION 10. G.S. 19A-24(1) reads as rewritten:

"§ 19A-24. Powers of Board of Agriculture.

The Board of Agriculture may:

- (1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel which offers dog day care services, and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations which restrict the number of dogs that are permitted within any primary enclosure.

...."

SECTION 11.(a) G.S. 20-16.1(b) reads as rewritten:

"(b) ...

- (3) Upon conviction of such offense outside the jurisdiction of this State the person so convicted may apply to ~~the resident judge of the superior court~~ a district court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which he resides for limited driving privileges

1 hereinbefore defined. Upon such application the judge shall have the
2 authority to issue such limited driving privileges in the same manner as
3 if he were the trial judge.

4 "

5 "**SECTION 11.(b)** G.S. 97-10.2(j) reads as rewritten:

6 "(j) Notwithstanding any other subsection in this section, in the event that a
7 judgment is obtained by the employee in an action against a third party, or in the event
8 that a settlement has been agreed upon by the employee and the third party, either party
9 may apply to the resident superior court judge of the county in which the cause of action
10 ~~arose, arose or~~ where the injured employee ~~resides or the~~ resides, or to a presiding judge
11 ~~before whom the cause of action is pending, of either district,~~ to determine the
12 subrogation amount. After notice to the employer and the insurance carrier, after an
13 opportunity to be heard by all interested parties, and with or without the consent of the
14 employer, the judge shall determine, in his discretion, the amount, if any, of the
15 employer's lien, whether based on accrued or prospective workers' compensation
16 benefits, and the amount of cost of the third-party litigation to be shared between the
17 employee and employer. The judge shall consider the anticipated amount of prospective
18 compensation the employer or workers' compensation carrier is likely to pay to the
19 employee in the future, the net recovery to plaintiff, the likelihood of the plaintiff
20 prevailing at trial or on appeal, the need for finality in the litigation, and any other
21 factors the court deems just and reasonable, in determining the appropriate amount of
22 the employer's lien. If the matter is pending in the federal district court such
23 determination may be made by a federal district court judge of that division."

24 **SECTION 12.** G.S. 20-179.4 reads as rewritten:

25 "**§ 20-179.4. Community service alternative punishment; responsibilities of the**
26 **Department of ~~Crime Control and Public Safety; Correction; fee.~~**

27 (a) The Department of ~~Crime Control and Public Safety~~Correction shall conduct
28 a community service alternative punishment program for persons sentenced under
29 G.S. 20-179(i), (j) or (k).

30 (b) The Secretary of ~~Crime Control and Public Safety~~Correction shall assign at
31 least one coordinator to each district court district as defined in G.S. 7A-133 to assure
32 and report to the court the person's compliance with the community service sentence.
33 The appointment of each coordinator shall be made in consultation with the chief
34 district court judge in the district to which the coordinator is assigned. Each county must
35 provide office space in the courthouse or other convenient place, necessary equipment,
36 and secretarial service for the use of each coordinator assigned to that county.

37 (c) A fee of two hundred dollars (\$200.00) shall be paid by all persons serving a
38 community service sentence. That fee shall be paid to the clerk of court in the county in
39 which the person is convicted. The fee shall be paid in full within two weeks unless the
40 court, upon a showing of hardship by the person, allows additional time to pay the fee.
41 The person may not be required to pay the fee before beginning the community service
42 unless the court specifically orders the person to do so.

43 (d) Fees collected under this section shall be deposited in the general fund.

1 (e) The coordinator shall report to the court in which the community service was
2 ordered a significant violation of the terms of the probation judgment related to
3 community service. The court shall then conduct a hearing to determine if there is a
4 willful failure to comply. If the court determines there is a willful failure to pay the
5 prescribed fee or to complete the work as ordered by the coordinator within the
6 applicable time limits, the court shall revoke any limited driving privilege issued in the
7 impaired driving case until the community service requirement has been met and in
8 addition may take any further action authorized by Article 82 of General Statutes
9 Chapter 15A for violation of a condition of probation."

10 **SECTION 13.** G.S. 47-2 reads as rewritten:

11 "**§ 47-2. Officials of the United States, foreign countries, and sister states.**

12 The execution of all such instruments and writings as are permitted or required by
13 law to be registered may be proved or acknowledged before any one of the following
14 officials of the United States, of the District of Columbia, of the several states and
15 territories of the United States, of countries under the dominion of the United States and
16 of foreign countries: Any judge of a court of record, any clerk of a court of record, any
17 notary public, any commissioner of deeds, any commissioner of oaths, any mayor or
18 chief magistrate of an incorporated town or city, any ambassador, minister, consul,
19 vice-consul, consul general, vice-consul general, associate consul, or any other person
20 authorized by federal law to acknowledge documents as consular officers, or
21 commercial agent of the United States, any justice of the peace of any state or territory
22 of the United States, any officer of the army or air force of the United States or United
23 States marine corps having the rank of warrant officer or higher, any officer of the
24 United States navy or coast guard having the rank of warrant officer, or higher, or any
25 officer of the United States merchant marine having the rank of warrant officer, or
26 higher. No official seal shall be required of said military, naval or merchant marine
27 official, but he shall sign his name, designate his rank, and give the name of his ship or
28 military organization and the date, and for the purpose of certifying said
29 acknowledgment, he shall use a form in substance as follows:

30 On this the _____ day of _____, _____, before me _____, the undersigned
31 officer, personally appeared _____, known to me (or satisfactorily proven) to be
32 accompanying or serving in or with the armed forces of the United States (or to be the
33 spouse of a person accompanying or serving in or with the armed forces of the United
34 States) and to be the person whose name is subscribed to the within instruments and
35 acknowledged that _____ he _____ executed the same for the purposes therein
36 contained. And the undersigned does further certify that he is at the date of this
37 certificate a commissioned officer of the rank stated below and is in the active service of
38 the armed forces of the United States.

39 _____
40 Signature of Officer

41 _____
42 Rank of Officer and command to which attached.

43 If the proof or acknowledgment of the execution of an instrument is had before a
44 justice of the peace of any state of the United States other than this State or of any

1 territory of the United States, the certificate of such justice of the peace shall be
2 accompanied by a certificate of the clerk of some court of record of the county in which
3 such justice of the peace resides, which certificate of the clerk shall be under his hand
4 and official seal, to the effect that such justice of the peace was at the time the certificate
5 of such justice bears date an acting justice of the peace of such county and state or
6 territory and that the genuine signature of such justice of the peace is set to such
7 certificate."

8 **SECTION 14.** Article 4 of Chapter 47 of the General Statutes is amended by
9 adding the following new section to read:

10 **"§ 47-50.1. Register's certificate omitted.**

11 In all cases prior to October 1, 2004, where it appears from the records of the office
12 of the register of deeds of any county in this State that the execution of a deed of
13 conveyance or other instrument by law required or authorized to be registered was duly
14 signed and acknowledged as required by the laws of this State, and the register of deeds
15 has failed to certify the correctness of the acknowledgment as required by
16 G.S. 47-14(a), the registrations are hereby validated and the instrument so appearing in
17 the office of the register of deeds of that county is effective to the same extent as if the
18 register of deeds had properly certified the correctness of the acknowledgment."

19 **SECTION 15.** G.S. 47-53.1 reads as rewritten:

20 **"§ 47-53.1. Acknowledgment omitting seal of clerk or notary public.**

21 Where any person has taken an acknowledgment as either a notary public or a clerk
22 of a superior court, deputy clerk of a superior court, or assistant clerk of a superior court
23 and has failed to affix his or her seal and such this acknowledgment has been otherwise
24 duly probated and recorded then such this acknowledgment is hereby declared to be
25 sufficient and valid: ~~Provided this shall apply valid.~~ This section applies only to those
26 deeds and other instruments acknowledged prior to January 1, 1991."

27 **SECTION 16.** G.S. 55B-2(6) reads as rewritten:

28 **"§ 55B-2. Definitions.**

29 As used in this Chapter, the following words shall, unless the context requires
30 otherwise, have the following meanings:

31 ...

- 32 (6) The term "professional service" means any type of personal or
33 professional service of the public which requires as a condition
34 precedent to the rendering of such service the obtaining of a license
35 from a licensing board as herein defined, and pursuant to the following
36 provisions of the General Statutes: Chapter 83A, "Architects"; Chapter
37 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the
38 following Articles in Chapter 90: Article 1, "Practice of Medicine,"
39 Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy,"
40 Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with
41 regard to registered nurses, Article 11, "Veterinarians," Article 12A,
42 "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C,
43 "Marriage and Family Therapy Licensure," Article 18D, "Occupational
44 Therapy," ~~and Article 22, "Licensure Act for Speech and Language~~

1 Pathologists and Audiologists," and Article 24, "Licensed Professional
2 Counselors"; Chapter 89C, "Engineering and Land Surveying";
3 Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker
4 Certification and Licensure Act" with regard to Certified [Licensed]
5 Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E,
6 "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North
7 Carolina Soil Scientist Licensing Act".

8 **SECTION 17.(a)** G.S. 58-2-150 reads as rewritten:

9 **"§ 58-2-150. Oath required for compliance with law.**

10 Before issuing license to any insurance company to transact the business of
11 insurance in this State, the Commissioner shall require, in every case, in addition to the
12 other requirements provided for by law, that the company file with him the affidavit of
13 its president or other chief officer that ~~it has not violated any of the provisions of~~
14 ~~Articles 1 through 64 of this Chapter for the space of 12 months last past, and that it~~
15 ~~accepts the terms and obligations of Articles 1 through 64 of this Chapter as a part of~~
16 ~~the consideration of the license."~~

17 **SECTION 17.(b)** G.S. 58-10-20(b) reads as rewritten:

18 "(b) This Part does not apply to:

19 ...

20 (4) ~~Any~~ Except as provided in G.S. 58-10-45, any insurer subject to a
21 judicial order of liquidation or rehabilitation.

22"

23 **SECTION 17.(c)** G.S. 58-21-65(b)(4) is repealed.

24 **SECTION 17.(d)** G.S. 58-22-20 reads as rewritten:

25 **"§ 58-22-20. Risk retention groups not chartered in this State.**

26 Risk retention groups that have been chartered in states other than this State and that
27 seek to do business as risk retention groups in this state must observe and abide by the
28 laws of this State as follows:

29 ...

30 (4) Compliance With Unfair Claims Settlement Practices Law. – A risk
31 retention group and its agents and representatives shall comply with
32 ~~G.S. 58-3-100(5)~~ G.S. 58-3-100(a)(5) and G.S. 58-63-15(11).

33"

34 **SECTION 17.(e)** G.S. 58-33-82(e) reads as rewritten:

35 "(e) Commissions, fees, or other valuable consideration for the sale, solicitation,
36 or negotiation of insurance may be assigned or directed to be paid in the following
37 circumstances:

38 (1) To a business entity by a person who is an owner, shareholder,
39 member, partner, director, employee, or agent of that business entity.

40 (2) To a producer in connection with renewals of insurance business
41 originally sold by or through the licensed person or for other deferred
42 commissions.

1 (3) In connection with the indirect receipt of commissions in
2 circumstances in which a license is not required under
3 ~~G.S. 58-33-26(m)~~, G.S. 58-33-26(n)."

4 **SECTION 17.(f)** G.S. 58-36-90(e) reads as rewritten:

5 "(e) Indemnification. – An insurer shall indemnify, defend, and hold agents
6 harmless from and against all liability, fees, and costs arising out of or relating to the
7 actions, errors, or omissions of an agent who obtains or uses credit information or
8 ~~insurance-credit~~ scores for an insurer, provided the agent follows the instructions or
9 procedures established by the insurer and complies with any applicable law or
10 regulation. Nothing in this subsection shall be construed to provide a consumer or other
11 insured with a cause of action that does not exist in the absence of this subsection."

12 **SECTION 17.(g)** G.S. 58-36-90(f) reads as rewritten:

13 "(f) Filing. – Insurers that use ~~insurance-credit~~ scores to underwrite and rate risks
14 shall file their scoring models, or other scoring processes, with the Department. A filing
15 that includes ~~insurance-credit~~ scoring may include loss experience justifying the
16 applicable surcharge or credit. A filer may request that its credit score data be
17 considered a trade secret and may designate parts of its filings accordingly."

18 **SECTION 17.(h)** G.S. 97-165(10) reads as rewritten:

19 **"§ 97-165. Definitions.**

20 As used in this Article:

21 ...

22 (10) "Self-insurer" means ~~a single-an~~ employer who retains liability under
23 the Act and is licensed under this Article."

24 **SECTION 18.** G.S. 58-3-33(a) reads as rewritten:

25 "(a) A person who claims to have been physically injured or to have incurred
26 property damage where such injury or damage is subject to a policy of nonfleet private
27 passenger automobile insurance may request by certified mail directed to the insurance
28 adjuster or to the insurance company (Attention Corporate Secretary) at its last known
29 principal place of business that the insurance company provide information regarding
30 the policy's limits of coverage under the applicable policy. Upon receipt of such a
31 request, which shall include the policyholder's name, and, if available, policy number,
32 the insurance company shall notify that person within 15 business days, on a form
33 developed by the Department, that the insurer is required to provide this information
34 prior to litigation only if the person seeking the information satisfies all of the following
35 conditions:

36 (1) The person seeking the information submits to the insurer the person's
37 written consent to all of the person's physicians-medical providers to
38 release to the insurer the person's medical records for the three years
39 prior to the date on which the claim ~~arose~~, arose, as well as all medical
40 records pertaining to the claimed injury.

41"

42 **SECTION 19.(a)** G.S. 58-85-1 reads as rewritten:

43 **"§ 58-85-1. Application of fund.**

1 The money paid into the hands of the treasurer of the North Carolina State Firemen's
2 Association shall be known and remain as the "Firemen's Relief Fund" of North
3 Carolina, and shall be used as a fund for the relief of ~~firemen,~~ firemen and county fire
4 marshals, who are members of such this Association, who may be injured or rendered
5 sick by disease contracted in the actual discharge of duty as ~~firemen,~~ firemen or county
6 fire marshals, and for the relief of widows, children, and if there be no widow or
7 children, then dependent mothers of ~~such the~~ firemen and county fire marshals killed or
8 dying from disease so contracted in ~~such the~~ discharge of duty; to be paid in ~~such the~~
9 manner and in such the sums to ~~such the~~ individuals of the classes herein named and
10 described as may be provided for and determined upon in accordance with the
11 constitution and bylaws of said the Association, and ~~such any~~ provisions and
12 determinations made pursuant to said under the constitution and bylaws shall be final
13 and conclusive as to the persons entitled to benefits and as to the amount of benefit to be
14 received, and no action at law shall be maintained against ~~said the~~ Association to
15 enforce any claim or recover any benefit under this Article or under the constitution and
16 bylaws of ~~said the~~ Association; but if any officer or committee of ~~said the~~ Association
17 omit or refuse to perform any duty imposed upon him or them, nothing herein contained
18 shall be construed to prevent any proceedings against ~~said that~~ officer or committee to
19 compel him or them to perform ~~such that~~ duty. No fireman or county fire marshal shall
20 be entitled to receive any benefits under this section until the firemen's relief fund of his
21 city or town ~~shall have~~ has been exhausted. Notwithstanding the above provisions, the
22 Executive Board of the North Carolina State Firemen's Association is hereby authorized
23 to grant educational scholarships to members and the children of members, to subsidize
24 premium payments of members over 65 years of age to the Firemen's Fraternal
25 Insurance Fund of the North Carolina State Firemen's Association, and to provide
26 accidental death and dismemberment insurance for members of those fire departments
27 not eligible for benefits pursuant to standards of certification adopted by the State
28 Firemen's Association for the use of local relief funds."

29 **SECTION 19.(b)** G.S. 58-85-15 reads as rewritten:

30 **"§ 58-85-15. Who shall participate in the fund.**

31 The line of duty entitling one to participate in the fund shall be so construed as to
32 mean actual fire duty only, and any actual duty connected with the fire department or
33 county fire marshal office when directed to perform the same by an officer in charge."

34 **SECTION 19.(c)** G.S. 58-85-20 reads as rewritten:

35 **"§ 58-85-20. Who may become members.**

36 Any organized fire company in North Carolina, holding itself ready for duty, may,
37 upon compliance with the requirements of ~~said its~~ constitution and bylaws, become a
38 member of the North Carolina State Firemen's Association, and any fireman of good
39 moral character in North Carolina, and belonging to an organized fire company, who
40 ~~will comply~~ complies with the requirements of the constitution and bylaws of the North
41 Carolina State Firemen's Association, may become a member of ~~said the~~ Association.
42 Any county fire marshal office may, upon compliance with the requirements of its
43 constitution and bylaws, become a member of the North Carolina Firemen's
44 Association, and any employee of a county fire marshal office of good moral character

1 whose sole duty is to act as a fire marshal, deputy fire marshal, assistant fire marshal, or
2 firefighter of the county, who complies with the requirements of its constitution and
3 bylaws, may become a member of the North Carolina Firemen's Association."

4 **SECTION 19.(d)** G.S. 58-85-25 reads as rewritten:

5 **"§ 58-85-25. Applied to members of regular fire company.**

6 ~~The provisions of~~ G.S. 58-85-1, 58-85-10, 58-85-15, 58-85-20, and 58-85-25 shall
7 apply to any fireman or fire marshal who is a member of a regularly organized fire
8 ~~company, company or county fire marshal office,~~ and is a member in good standing of
9 the North Carolina State Firemen's Association."

10 **SECTION 20.** G.S. 62-82(a) reads as rewritten:

11 "(a) Notice of Application for Certificate for Generating Facility; Hearing; Briefs
12 and Oral Arguments. – Whenever there is filed with the Commission an application for
13 a certificate of public convenience and necessity for the construction of a facility for the
14 generation of electricity under G.S. 62-110.1, the Commission shall require the
15 applicant to publish a notice thereof once a week for four successive weeks in a daily
16 newspaper of general circulation in the county where such facility is proposed to be
17 constructed and thereafter the Commission upon complaint shall, or upon its own
18 initiative may, upon reasonable notice, enter upon a hearing to determine whether such
19 certificate shall be awarded. Any such hearing must be commenced by the Commission
20 not later than three months after the filing of such application, and the procedure for
21 rendering decisions therein shall be given priority over all other cases on the
22 Commission's calendar of hearings and decisions, except rate proceedings referred to in
23 G.S. 62-81. Such applications shall be heard as provided in G.S. 62-60.1, and the
24 Commission shall furnish a transcript of evidence and testimony submitted by the end
25 of the second business day after the taking of each day of testimony. The Commission
26 or panel shall require that briefs and oral arguments in such cases be submitted within
27 30 days after the conclusion of the hearing, and the Commission or panel shall render its
28 decision in such cases within 60 days after submission of such briefs and arguments. If
29 the Commission or panel does not, upon its own initiative, order a hearing and does not
30 receive a complaint within 10 days after the last day of publication of the notice, the
31 Commission or panel shall enter an order awarding the certificate. Notwithstanding this
32 section, applicants for a certificate for solar photovoltaic facilities of 10 kilowatts or less
33 are exempt from the requirement to publish public notice in newspapers."

34 **SECTION 21.** G.S. 66-27.1(a) reads as rewritten:

35 "(a) No individual, firm, corporation or business shall install, sell or offer for sale
36 any automatic hot water tank or heater of 120-gallon capacity or ~~less-less,~~ except for a
37 tankless water heater, which does not have installed thereon by the manufacturer of ~~such~~
38 the tank or heater an American Society of Mechanical Engineers and National Board of
39 Boiler and Pressure Vessel Inspectors approved type pressure-temperature relief valve
40 set at or below the safe working pressure of the tank as indicated, and so labeled by the
41 manufacturer's identification stamped or cast upon the tank or heater or upon a plate
42 secured to it."

43 **SECTION 22.(a)** G.S. 90-171.21(d) reads as rewritten:

1 "(d) Qualifications. – Of the eight registered nurse members on the Board, one
2 shall be a nurse administrator employed by a hospital or a hospital system, who shall be
3 accountable for the administration of nursing services and not directly involved in
4 patient care; one shall be an individual who meets the requirements to practice as a
5 certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse
6 specialist, or a nurse practitioner; two shall be staff nurses, defined as individuals who
7 are primarily involved in direct patient care regardless of practice setting; one shall be
8 an at-large registered nurse who meets the requirements of sub-subdivisions (1)a., a1.,
9 and b. of this subsection, but is not currently an educator in a program leading to
10 licensure or any other degree-granting program; and three shall be nurse educators.
11 Minimum ongoing employment requirements for every registered nurse and licensed
12 practical nurse shall include continuous employment equal to or greater than fifty
13 percent (50%) of a full-time position that meets the criteria for the specified Board
14 member position. Of the three nurse educators, one shall be a practical nurse educator,
15 one shall be an associate degree or diploma nurse educator, and one shall be a
16 baccalaureate or higher degree nurse educator. All nurse educators shall meet the
17 minimum education requirement as established by the Board's education program
18 standards for nurse faculty. Candidates eligible for election to the Board as nurse
19 educators are not eligible for election as the at-large member.

20 (1) Except for the at-large member, every registered nurse member shall
21 meet the following criteria:

- 22 a. Hold a current, unencumbered license to practice as a registered
23 nurse in North Carolina.
- 24 a1. Be a resident of North Carolina.
- 25 b. Have a minimum of five years of experience as a registered
26 nurse.
- 27 c. Have been engaged continuously in a position that meets the
28 criteria for the specified Board position for at least three years
29 immediately preceding election.
- 30 d. Show evidence that the employer of the registered nurse is
31 aware that the nurse intends to serve on the Board.

32 (2) Every licensed practical nurse member shall meet the following
33 criteria:

- 34 a. Hold a current, unencumbered license to practice as a licensed
35 practical nurse in North Carolina.
- 36 a1. Be a resident of North Carolina.
- 37 c. Have a minimum of five years of experience as a licensed
38 practical nurse.
- 39 d. Have been engaged continuously in the position of a licensed
40 practical nurse for at least three years immediately preceding
41 election.
- 42 e. Show evidence that the employer of the licensed practical nurse
43 is aware that the nurse intends to serve on the Board.

- 1 (3) A public member shall not be a provider of health services, employed
2 in the health services field, or hold a vested interest at any level in the
3 provision of health services as defined by the North Carolina Board of
4 Ethics. No public member or person in the public member's immediate
5 family as defined by G.S. 90-405(8) shall be currently employed as a
6 licensed nurse or been previously employed as a licensed nurse.
- 7 (4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical
8 nurse specialist member shall be recognized by the Board as a
9 registered nurse who meets the following criteria:
- 10 a. Has graduated from or completed a graduate level advanced
11 practice nursing education program accredited by a national
12 accrediting body.
- 13 b. Maintains current certification or recertification from a national
14 credentialing body approved by the Board or meets other
15 requirements established by rules adopted by the Board.
- 16 c. Practices in a manner consistent with rules adopted by the
17 Board and other applicable law."

18 **SECTION 22.(b)** This section is effective when it becomes law and applies
19 to members elected to the Board on or after January 1, 2005.

20 **SECTION 23.** G.S. 114-19.50, Article VI. Establishment of Compact
21 Council., subsection (b)(3), reads as rewritten:

22 "(b) The council must be composed of 15 members, each of whom must be
23 appointed by the Attorney General, as follows:

24 ...

- 25 (3) Two at-large members, nominated by the chair of the council once the
26 chair is elected pursuant to ~~subsection (e)(3)~~ subsection (c) of this
27 Article VI, each of whom shall serve a three-year term, of whom:
- 28 a. One must be a representative of state or local criminal justice
29 agencies; and
- 30 b. One must be a representative of state or local noncriminal
31 justice agencies;

32"

33 **SECTION 24.(a)** G.S. 115C-522(a) reads as rewritten:

34 "(a) It shall be the duty of local boards of education to purchase or exchange all
35 supplies, equipment, and materials, and these purchases shall be made in accordance
36 with Article 8 of Chapter 143 of the General Statutes. These purchases may be made
37 from contracts made by the Department of Administration. Title to instructional
38 supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense
39 fund budget and purchased out of State funds, shall be taken in the name of the local
40 board of education which shall be responsible for the custody and replacement:
41 Provided, that no contracts shall be made by any local school administrative unit for
42 purchases unless provision has been made in the budget of the unit to pay for the
43 purchases, unless surplus funds are on hand to pay for the purchases, or unless the
44 contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate

1 funds are available to pay in the current fiscal year the sums obligated for the current
2 fiscal year. The State Board of Education shall adopt rules regarding equipment
3 standards for supplies, equipment, and materials related to student transportation. The
4 State Board may adopt guidelines for any commodity that needs safety features. If a
5 commodity that needs safety features is available on statewide term contract, any
6 guidelines adopted by the State Board must at a minimum meet the safety standards of
7 the statewide term contract. Compliance with Article 8 of Chapter 143 of the General
8 Statutes is not mandatory for the purchase of published books, manuscripts, maps,
9 pamphlets, and periodicals.

10 (1) Where competition is available, local school administrative units may
11 utilize the:

- 12 a. E-Quote service of the NC E-Procurement system as one means
13 of solicitation in seeking informal bids for purchases subject to
14 the bidding requirements of G.S. 143-131; and
15 b. Division of Purchase and Contract's electronic Interactive
16 Purchasing System as one means of advertising formal bids on
17 purchases subject to the bidding requirements of G.S. 143-129
18 and applicable rules regarding advertising. This sub-subdivision
19 does not prohibit a local school administrative unit from using
20 other methods of advertising.

21 (2) In order to provide an efficient transition of purchasing procedures, the
22 Secretary of the Department of Administration and the local school
23 administrative units shall establish a local school administrative unit
24 purchasing user group. The user group shall be comprised of a
25 proportionate number of representatives from the Department of
26 Administration and local school administrative unit purchasing and
27 finance officers. The user group shall examine any issues that may
28 arise between the Department of Administration and local school
29 administrative units, including the new relationship between the
30 Department and the local school administrative units, the appropriate
31 exchange of information, the continued efficient use of
32 E-Procurement, appropriate bid procedures, and any other technical
33 assistance that may be necessary for the purchase of supplies and
34 materials."

35 **SECTION 24.(b)** This section becomes effective April 1, 2004.

36 **SECTION 25.(a)** G.S. 115C-549 reads as rewritten:

37 **"§ 115C-549. Standardized testing requirements.**

38 Each private church school or school of religious charter shall administer, at least
39 once in each school year, a nationally standardized test or other nationally standardized
40 equivalent measurement selected by the chief administrative officer of such school, to
41 all students enrolled or regularly attending grades three, six and nine. The nationally
42 standardized test or other equivalent measurement selected must measure achievement
43 in the areas of English grammar, reading, spelling and mathematics. Each school shall
44 make and maintain records of the results achieved by its students. For one year after the

1 testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~
2 G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for
3 annual inspection by a duly authorized representative of the State of North Carolina."

4 **SECTION 25.(b)** G.S. 115C-550 reads as rewritten:

5 "**§ 115C-550. High school competency testing.**

6 To assure that all high school graduates possess those minimum skills and that
7 knowledge thought necessary to function in society, each private church school or
8 school of religious charter shall administer at least once in each school year, a nationally
9 standardized test or other nationally standardized equivalent measure selected by the
10 chief administrative officer of such school, to all students enrolled and regularly
11 attending the eleventh grade. The nationally standardized test or other equivalent
12 measurement selected must measure competencies in the verbal and quantitative areas.
13 Each private church school or school of religious charter shall establish a minimum
14 score which must be attained by a student on the selected test in order to be graduated
15 from high school. For one year after the testing, all records shall be made available,
16 subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of
17 such school, at all reasonable times, for annual inspection by a duly authorized
18 representative of the State of North Carolina."

19 **SECTION 25.(c)** G.S. 115C-557 reads as rewritten:

20 "**§ 115C-557. Standardized testing requirements.**

21 Each qualified nonpublic school shall administer, at least once in each school year, a
22 nationally standardized test or other nationally standardized equivalent measurement
23 selected by the chief administrative officer of such school, to all students enrolled or
24 regularly attending grades three, six and nine. The nationally standardized test or other
25 equivalent measurement selected must measure achievement in the areas of English
26 grammar, reading, spelling and mathematics. Each school shall make and maintain
27 records of the results achieved by its students. For one year after the testing, all records
28 shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13,
29 at the principal office of such school, at all reasonable times, for annual inspection by a
30 duly authorized representative of the State of North Carolina."

31 **SECTION 25.(d)** G.S. 115C-558 reads as rewritten:

32 "**§ 115C-558. High school competency testing.**

33 To assure that all high school graduates possess those minimum skills and that
34 knowledge thought necessary to function in society, each qualified nonpublic school
35 shall administer at least once in each school year, a nationally standardized test or other
36 nationally standardized equivalent measure selected by the chief administrative officer
37 of such school, to all students enrolled and regularly attending the eleventh grade. The
38 nationally standardized test or other equivalent measurement selected must measure
39 competencies in the verbal and quantitative areas. Each qualified nonpublic school shall
40 establish a minimum score which must be attained by a student on the selected test in
41 order to be graduated from high school. For one year after the testing, all records shall
42 be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the
43 principal office of such school, at all reasonable times, for annual inspection by a duly
44 authorized representative of the State of North Carolina."

1 **SECTION 26.(a)** G.S. 120-85 reads as rewritten:

2 "**§ 120-85. Definitions.**

3 As used in this Article:

4 (1) "Business with which ~~he is~~ associated" means any enterprise,
5 incorporated or otherwise, doing business in the State of which ~~the~~
6 ~~legislator~~ the person or any member of ~~his~~ the person's immediate
7 household is a director, officer, owner, partner, employee, or of which
8 the ~~legislator~~ person and ~~his~~ the person's immediate household, either
9 singularly or collectively, is a holder of securities worth five thousand
10 dollars (\$5,000) or more at fair market value as of December 31 of the
11 preceding year, or constituting five percent (5%) or more of the
12 outstanding stock of ~~such~~ the enterprise.

13 (1a) "Economic interest" includes matters involving a business with which
14 the person is associated or a nonprofit corporation or organization with
15 which the person is associated.

16 (2) "Immediate household" means the ~~legislator, his person, the person's~~
17 spouse, and all of the person's dependent ~~children of the legislator.~~
18 children.

19 (2a) "Nonprofit corporation or organization with which associated" means
20 any public or private enterprise, incorporated or otherwise, that is
21 organized or operating in the State primarily for religious, charitable,
22 scientific, literary, public health and safety, or educational purposes
23 and of which the person or any member of the person's immediate
24 household is a director, officer, governing board member, employee or
25 independent contractor as of December 31 of the preceding year.

26 (3) "Vested trust" as set forth in G.S. 120-96(4) means any trust, annuity
27 or other funds held by a trustee or other third party for the benefit of
28 the ~~member~~ person or a member of ~~his~~ the person's immediate
29 household."

30 **SECTION 26.(b)** G.S. 120-87 reads as rewritten:

31 "**§ 120-87. Disclosure of confidential information.**

32 (a) No legislator shall use or disclose in any way confidential information gained
33 in the course of the legislator's official activities or by reason of ~~his~~ the legislator's
34 official position ~~or activities in any way~~ that could result in financial gain ~~for himself,~~
35 for: (i) the legislator; (ii) a business with which ~~he~~ the legislator is associated ~~or~~
36 associated; (iii) a nonprofit corporation or organization with which the legislator is
37 associated; (iv) a member of ~~his~~ the legislator's immediate ~~household~~ household; or (v)
38 any other person.

39 (b) As used in this section, "confidential information" means information defined
40 as confidential by statute."

41 **SECTION 26.(c)** G.S. 120-96 reads as rewritten:

42 "**§ 120-96. Contents of statement.**

1 (a) Any statement of economic interest filed under this Article shall be on a form
2 prescribed by the Committee, and the person filing the statement shall supply all of the
3 following information:

4 (1) The identity, by name, of ~~any business~~ all businesses, nonprofit
5 corporations or organizations with which he, or any member of his
6 immediate household, is associated; the person is associated.

7 (2) The character and location of all real estate of a fair market value ~~in~~
8 ~~excess of~~ more than five thousand dollars (\$5,000), other than ~~his~~ the
9 person's personal residence (curtilage), in the State in which he, the
10 person, or a member of his ~~the person's~~ immediate household, has any
11 beneficial interest, including an option to buy and a lease for 10 years
12 or ~~over;~~ more.

13 (3) The type of each creditor to whom ~~he, the person,~~ or a member of ~~his~~
14 the person's immediate household, owes ~~money,~~ more than five
15 thousand dollars (\$5,000), except indebtedness secured by lien upon
16 his ~~the person's~~ personal residence ~~only, in excess of five thousand~~
17 dollars (\$5,000); only.

18 (4) The name of each "vested trust" in which ~~he~~ the person or a member of
19 ~~his~~ the person's immediate household has a financial interest ~~in excess~~
20 ~~of~~ more than five thousand dollars (\$5,000) and the nature of ~~such~~
21 interest; the interest.

22 (5) The name and nature of ~~his~~ the person and ~~his~~ the person's immediate
23 household member's respective business or profession or employer and
24 the types of customers and types of clientele ~~served;~~ served.

25 (6) A list of businesses with which ~~he~~ the person is associated that do
26 business with the State, and a brief description of the nature of ~~such~~
27 business; and the business.

28 (6a) A list of nonprofit corporations or organizations with which the person
29 is associated and which receive State funds, and a brief description of
30 the nature of the programs receiving funds.

31 (7) In the case of ~~professional persons and associations,~~ a person who
32 practices a profession, whether individually or as a member of a
33 professional association, a list of ~~classifications of business clients~~
34 clients, by the type of business, whom the person or the person's firm
35 or partnership has ~~which classes were charged or who have paid to the~~
36 person or the person's firm or partnership two thousand five hundred
37 dollars (\$2,500) or more for professional services rendered during the
38 previous calendar year for professional services rendered by him, his
39 firm or partnership, year. This list need not include the name of the
40 client but shall list the type of the business of each such client or class
41 of client, and brief description of the nature of the services rendered.

42 (b) All information provided in the statement of economic interest shall be
43 current as of the last day of December of the year preceding the signature date."

44 **SECTION 26.(d)** G.S. 120-99 reads as rewritten:

1 **"§ 120-99. Creation; composition.**

2 (a) The Legislative Ethics Committee is created to consist of ten members, five
3 Senators appointed by the President Pro Tempore of the Senate, among them – two
4 from a list of four submitted by the Majority Leader and two from a list of four
5 submitted by the Minority Leader, and five members of the House of Representatives
6 appointed by the Speaker of the House, among them – two from a list of four submitted
7 by the Majority Leader and two from a list of four submitted by the Minority Leader.

8 (b) The President Pro Tempore of the Senate and the Speaker of the House as the
9 appointing officers shall each designate a cochair of the Legislative Ethics Committee
10 from the respective officer's appointees. The cochair appointed by the President Pro
11 Tempore of the Senate shall preside over the Legislative Ethics Committee during the
12 odd-numbered year, and the cochair appointed by the Speaker of the House shall preside
13 in the even-numbered year. However, a cochair may preside at anytime during the
14 absence of the presiding cochair or upon the presiding cochair's designation. In the
15 event a cochair is unable to act as cochair on a specific matter before the Legislative
16 Ethics Committee, and so indicates in writing to the appointing officer and the
17 Legislative Ethics Committee, the respective officer shall designate from that officer's
18 appointees a member to serve as cochair for that specific matter.

19 (c) The provisions of G.S. 120-19.1 through G.S. 120-19.8 shall apply to the
20 proceedings of the Legislative Ethics Committee as if it were a joint committee of the
21 General Assembly, except that both cochairs shall sign all subpoenas on behalf of the
22 Committee."

23 **SECTION 26.(e)** G.S. 120-100 reads as rewritten:

24 **"§ 120-100. Term of office; vacancies.**

25 (a) Appointments to the Legislative Ethics Committee shall be made
26 immediately after the convening of the regular session of the General Assembly in
27 odd-numbered years, and appointees shall serve until the expiration of their then-current
28 terms as members of the General Assembly.

29 (b) A vacancy occurring for any reason during a term shall be filled for the
30 unexpired term by the authority making the appointment which caused the vacancy, and
31 the person appointed to fill the vacancy shall, if possible, be a member of the same
32 political party as the member who caused the vacancy.

33 (c) In the event a member of the Legislative Ethics Committee is unable to act on
34 a specific matter before the Legislative Ethics Committee, and so indicates in writing to
35 the appointing officer and the Legislative Ethics Committee, the appointing officer may
36 appoint another member of the respective chamber from a list submitted by the majority
37 leader or minority leader who nominated the member who is unable to act on the matter
38 to serve as a member of the Legislative Ethics Committee for the specific matter only. If
39 on any specific matter, the number of members of the Legislative Ethics Committee
40 who are unable to act on a specific matter exceeds four members, the appropriate
41 appointing officer shall appoint other members of the General Assembly to serve as
42 members of the Legislative Ethics Committee for that specific matter only."

43 **SECTION 26.(f)** Subsections (a), (b) and (c) of this section are effective
44 January 1, 2006, and apply to candidates running for office on or after that date, to

1 persons appointed to fill vacancies for the 2007 and subsequent General Assemblies,
2 and to presiding officers of the 2007 and subsequent General Assemblies. The
3 remainder of this section is effective when it becomes law.

4 **SECTION 27.(a)** G.S. 135-1(25) reads as rewritten:

5 "(25) "Teacher" shall mean any teacher, helping teacher, ~~classroom~~-teacher
6 in a job-sharing position ~~as defined in G.S. 115C-302.2(b)~~ under
7 G.S. 115C-326.5 except for a beneficiary in that position, librarian,
8 principal, supervisor, superintendent of public schools or any full-time
9 employee, city or county, superintendent of public instruction, or any
10 full-time employee of Department of Public Instruction, president,
11 dean or teacher, or any full-time employee in any educational
12 institution supported by and under the control of the State: Provided,
13 that the term "teacher" shall not include any part-time, temporary, or
14 substitute teacher or employee except for a ~~classroom~~-teacher in a
15 job-sharing position, and shall not include those participating in an
16 optional retirement program provided for in G.S. 135-5.1 or
17 G.S. 135-5.4. In all cases of doubt, the Board of Trustees, hereinbefore
18 defined, shall determine whether any person is a teacher as defined in
19 this Chapter. On and after August 1, 2001, a person who is a
20 nonimmigrant alien and who otherwise meets the requirements of this
21 subdivision shall not be excluded from the definition of "teacher"
22 solely because the person holds a temporary or time-limited visa.
23 Notwithstanding the foregoing, the term "teacher" shall not include
24 any nonimmigrant alien employed in elementary or secondary public
25 schools (whether employed in a full-time, part-time, temporary,
26 permanent, or substitute teacher position) and participating in an
27 exchange visitor program designated by the United States Department
28 of State pursuant to 22 C.F.R. Part 62."

29 **SECTION 27.(b)** G.S. 135-40.2(a2) reads as rewritten:

30 "(a2) A school employee in a job-sharing position as defined in ~~G.S. 115C-302.2(b)~~
31 G.S. 115C-326.5(b) shall be eligible for coverage under the Plan, on a partially
32 contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect
33 to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's
34 total noncontributory premiums. Individual employees shall pay the balance of the total
35 noncontributory premiums not paid by the employing unit."

36 **SECTION 28.** G.S. 143-34.1(d) reads as rewritten:

37 "(d) Notwithstanding any other provisions of law relating to the salaries of
38 officers and employees of departments, institutions, and agencies of State government,
39 the Director of the Budget is authorized to provide a plan of flexible compensation to
40 eligible officers and employees of State departments, institutions, and agencies not
41 covered by the provisions of G.S. 116-17.2 for benefits available under Section 125 and
42 related sections of the Internal Revenue Code of 1986 as amended. This plan shall not
43 ~~include those~~ replace, substitute for, or duplicate any benefits provided to employees
44 and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3,

1 4, and 6 of Chapter 135 of the General Statutes ~~nor any vacation leave, sick leave, or~~
2 ~~any other leave that may be carried forward from year to year by employees as a form~~
3 ~~of deferred compensation.~~ Statutes. The plan may, however, include offerings for
4 products and benefits that are supplemental or additional to these statutory benefits. In
5 providing a plan of flexible compensation, the Director of the Budget may authorize
6 State departments, institutions, and agencies to enter into agreements with their
7 employees for reductions in the salaries of employees electing to participate in the plan
8 of flexible compensation provided by this section. With the approval of the Director of
9 the Budget, savings in the employer's share of contributions under the Federal Insurance
10 Contributions Act on account of the reduction in salary may be used to pay some or all
11 of the administrative expenses of the program. Should the Director of the Budget decide
12 to contract with a third party to administer the terms and conditions of a plan of flexible
13 compensation as provided by this section, it may select such a contractor only upon a
14 thorough and completely advertised competitive procurement process."

15 **SECTION 29.(a)** Part 3 of Article 3A of Chapter 143 of the General Statutes
16 is repealed.

17 **SECTION 29.(b)** G.S. 143-129.8(b) reads as rewritten:

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

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

26 **SECTION 30.(a)** Article 9 of Chapter 143 of the General Statutes is
27 amended by adding the following new section to read:

28 **"§ 143-143.5. Access to toilets in shopping malls.**

29 Notwithstanding any other law or rule, a horizontal travel distance of 300 feet for
30 access to public use toilets in shopping malls shall be allowed."

31 **SECTION 30.(b)** This section is effective when it becomes law and applies
32 to shopping malls for which building permits are issued on or before July 1, 2005. This
33 section expires July 1, 2005.

34 **SECTION 31.(a)** G.S. 157-9 is amended by adding the following new
35 subsection to read:

36 "(d) A housing authority shall not erect or maintain around any lawfully occupied
37 housing units any fence or gate structure that is electrified or that includes spikes or
38 barbed wire."

39 **SECTION 31.(b)** This section is effective when it becomes law and applies
40 to existing fences and gates.

41 **SECTION 32.(a)** G.S. 160A-361 reads as rewritten:

42 **"§ 160A-361. Planning agency boards.**

43 (a) Any city may by ordinance create or designate one or more ~~agencies boards~~
44 or commissions to perform the following duties:

- 1 (1) Make studies of the area within its jurisdiction and surrounding areas;
- 2 (2) Determine objectives to be sought in the development of the study
- 3 area;
- 4 (3) Prepare and adopt plans for achieving these objectives;
- 5 (4) Develop and recommend policies, ordinances, administrative
- 6 procedures, and other means for carrying out plans in a coordinated
- 7 and efficient manner;
- 8 (5) Advise the council concerning the use and amendment of means for
- 9 carrying out plans;
- 10 (6) Exercise any functions in the administration and enforcement of
- 11 various means for carrying out plans that the council may direct;
- 12 (7) Perform any other related duties that the council may direct.
- 13 (b) ~~An agency~~ A board or commission created or designated pursuant to this
- 14 section may include, but shall not be limited to, one or more of the following:
- 15 (1) A planning board or commission of any size (with not fewer than three
- 16 members) or composition deemed appropriate, organized in any
- 17 manner deemed appropriate;
- 18 (2) A joint planning board created by two or more local governments
- 19 pursuant to Article 20, Part 1, of this Chapter."

20 **SECTION 32.(b)** G.S. 160A-363 reads as rewritten:

21 "**§ 160A-363. Supplemental powers.**

22 A city or its designated planning ~~agency-board~~ may accept, receive, and disburse in
23 furtherance of its functions any funds, grants, and services made available by the federal
24 government and its agencies, the State government and its agencies, any local
25 government and its agencies, and any private and civic sources. Any city, or its
26 designated planning ~~agency-board~~ with the concurrence of the council, may enter into
27 and carry out contracts with the State and federal governments or any agencies thereof
28 under which financial or other planning assistance is made available to the city and may
29 agree to and comply with any reasonable conditions that are imposed upon such
30 assistance.

31 Any city, or its designated planning ~~agency-board~~ with the concurrence of the
32 council, may enter into and carry out contracts with any other city, county, or regional
33 council or planning agency under which it agrees to furnish technical planning
34 assistance to the other local government or planning agency. Any city, or its designated
35 planning ~~agency-board~~ with the concurrence of its council, may enter into and carry out
36 contracts with any other city, county, or regional council or planning agency under
37 which it agrees to pay the other local government or planning ~~agency-board~~ for
38 technical planning assistance.

39 Any city council is authorized to make any appropriations that may be necessary to
40 carry out any activities or contracts authorized by this Article or to support, and
41 compensate members of, any planning ~~agency-board~~ that it may create pursuant to this
42 Article, and to levy taxes for these purposes as a necessary expense."

43 **SECTION 32.(c)** G.S. 153A-321 reads as rewritten:

44 "**§ 153A-321. Planning agency-boards.**

1 A county may by ordinance create or designate one or more ~~agencies~~ boards or
2 commissions to perform the following duties:

- 3 (1) Make studies of the county and surrounding areas;
- 4 (2) Determine objectives to be sought in the development of the study
5 area;
- 6 (3) Prepare and adopt plans for achieving these objectives;
- 7 (4) Develop and recommend policies, ordinances, administrative
8 procedures, and other means for carrying out plans in a coordinated
9 and efficient manner;
- 10 (5) Advise the board of commissioners concerning the use and amendment
11 of means for carrying out plans;
- 12 (6) Exercise any functions in the administration and enforcement of
13 various means for carrying out plans that the board of commissioners
14 may direct;
- 15 (7) Perform any other related duties that the board of commissioners may
16 direct.

17 ~~An agency~~ A board or commission created or designated pursuant to this section
18 may include but shall not be limited to one or more of the following:

- 19 (1) A planning board or commission of any size (with not fewer than three
20 members) or composition considered appropriate, organized in any
21 manner considered appropriate;
- 22 (2) A joint planning board created by two or more local governments
23 according to the procedures and provisions of Chapter 160A, Article
24 20, Part 1."

25 **SECTION 32.(d)** G.S. 153A-322 reads as rewritten:

26 "**§ 153A-322. Supplemental powers.**

27 A county or its designated planning ~~agency~~ board may accept, receive, and disburse
28 in furtherance of its functions funds, grants, and services made available by the federal
29 government or its agencies, the State government or its agencies, any local government
30 or its agencies, and private or civic sources. A county, or its designated planning ~~agency~~
31 board with the concurrence of the board of commissioners, may enter into and carry out
32 contracts with the State or federal governments or any agencies of either under which
33 financial or other planning assistance is made available to the county and may agree to
34 and comply with any reasonable conditions that are imposed upon the assistance.

35 A county, or its designated planning ~~agency~~ board with the concurrence of the board
36 of commissioners, may enter into and carry out contracts with any other county, city,
37 regional council, or planning agency under which it agrees to furnish technical planning
38 assistance to the other local government or planning agency. A county, or its designated
39 planning ~~agency~~ board with the concurrence of the board of commissioners, may enter
40 into and carry out contracts with any other county, city, regional council, or planning
41 ~~agency~~ board under which it agrees to pay the other local government or planning
42 ~~agency~~ board for technical planning assistance.

43 A county may make any appropriations that may be necessary to carry out an
44 activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A,

1 Article 19 or to support, and compensate members of, any planning agency that it may
2 create or designate pursuant to this Article."

3 **SECTION 32.(e)** G.S. 160A-392 reads as rewritten:

4 "**§ 160A-392. Part applicable to buildings constructed by State and its**
5 **subdivisions; exception.**

6 All of the provisions of this Part are hereby made applicable to the erection,
7 construction, and use of buildings and land by the State of North Carolina and its
8 political subdivisions.

9 Notwithstanding the provisions of any general or local law or ordinance, no land
10 owned by the State of North Carolina may be included within ~~an overlay district or a~~
11 ~~special use or conditional use district~~ without approval of the Council of ~~State.~~State or
12 its designate."

13 **SECTION 32.(f)** This section becomes effective October 1, 2004.

14 **SECTION 33.** The introductory language of subsection (b) of Section 2 of
15 S.L.1997-41, as amended by S.L. 1998-19, S.L. 2001-318, S.L. 2003-55, and S.L.
16 2003-260 is rewritten to read:

17 "(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of
18 20 members, appointed as follows:"

19 **SECTION 34.(a)** The lead-in language of Section 1 of S.L. 2003-392 is
20 rewritten to read:

21 "**SECTION 1.** G.S. 153A-225 is amended by adding the following new subsection
22 to read:"

23 **SECTION 34.(b)** This section becomes effective August 7, 2003.

24 **SECTION 35.** If House Bill 142, 2003 Regular Session, becomes law, then
25 Section 2.1 of that act reads as rewritten:

26 "**SECTION 2.1.** Privilege tax. – Notwithstanding the provisions of G.S. 153A-152,
27 the Dare County Board of Commissioners may levy a privilege tax of up to three
28 hundred dollars (\$300.00) per ~~rental unit~~establishment on each business engaged in the
29 furnishing of any room, lodging, or accommodation within the county the rental of
30 which is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax
31 does not apply to nonprofit charitable, educational, or religious organizations that
32 furnish accommodations in furtherance of their nonprofit purpose. For the purposes of
33 this act, "establishment" has the same meaning as in G.S. 105-129.2."

34 **SECTION 36.** If House Bill 1414, 2003 Regular Session, becomes law, then
35 Section 7.22(a) of House Bill 1414 reads as rewritten:

36 "**HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM**

37 **SECTION 7.22.(a)** Funds are appropriated in this act for a high school workforce
38 development program. The purpose of the program shall be to identify students who
39 may not plan to attend or be adequately prepared to attend a two- or four-year degree
40 program and to provide the assistance those students need to earn an Associate Degree
41 the year after their senior year in high school. The Department of Public Instruction
42 shall work closely with the Education Cabinet and the New Schools Project in
43 administering the program.

1 These funds shall be used to establish five pilot projects in which a local school
2 administrative unit, two- and four-year colleges and universities, and local employers
3 work together to ensure that high school and community college curricula operate
4 seamlessly and meet the needs of participating employers. Notwithstanding any other
5 law or rule, a local school administrative unit and two- and four-year colleges and
6 universities shall agree upon the minimum age of the students who participate in the
7 pilot projects."

8 **SECTION 37.** If Section 8.17 of House Bill 1414, 2003 Regular Session,
9 becomes law, then a new subsection is added to read:

10 "**SECTION 8.17.(c)** No request for proposals need be issued for any contract under
11 subdivision (a)(2) of this section."

12 **SECTION 38.** If Senate Bill 582, 2003 Regular Session, becomes law,
13 G.S. 130A-475(b), as enacted by that law, reads as rewritten:

14 "(b) The authority under subsection (a) of this section shall be exercised only
15 when and so long as a public health threat may exist, all other reasonable means for
16 correcting the problem have been exhausted, and no less restrictive alternative exists.
17 Before applying the authority under subdivision (4) or (5) of subsection (a) of this
18 section to livestock or poultry for the purpose of preventing the direct or indirect
19 conveyance of a biological, chemical or nuclear agent to persons, the State Health
20 Director shall consult with the State Veterinarian in the Department of Agriculture and
21 Consumer Services.

22 The period of limited freedom of movement or access under subdivisions (4) and (5)
23 of subsection (a) of this section shall not exceed 30 calendar days. Any person
24 substantially affected by that limitation may institute, in superior court in Wake County
25 or in the county in which the limitation is imposed, an action to review the limitation.
26 The State Health Director shall give the persons known by the State Health Director to
27 be substantially affected by the limitation reasonable notice under the circumstances of
28 the right to institute an action to review the limitation. If a person or a person's
29 representative requests a hearing, the hearing shall be held within 72 hours of the filing
30 of the request, excluding Saturdays and Sundays. The person substantially affected by
31 that limitation is entitled to be represented by counsel of the person's own choice or if
32 the person is indigent, the person shall be represented by counsel appointed in
33 accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted
34 by the Office of Indigent Defense Services. The court shall reduce or terminate the
35 limitation unless it determines, by the preponderance of the evidence, that the limitation
36 is reasonably necessary to prevent or limit the conveyance of biological, chemical or
37 nuclear agents to others, and may apply such conditions to the limitation as the court
38 deems reasonable and necessary.

39 If the State Health Director determines that a 30-calendar-day limitation on freedom
40 of movement or access is not adequate to protect the public health, the State Health
41 Director must institute in superior court in the county in which the limitation is
42 imposed, an action to obtain an order extending the period limiting the freedom of
43 movement or access. If the person substantially affected by the limitation has already
44 instituted an action in superior court in Wake County, the State Health Director must

1 institute the action in superior court in Wake County or as a counterclaim in the pending
2 case. The court shall continue the limitation for a period not to exceed 30 days, subject
3 to conditions it deems reasonable and necessary, if it determines by the preponderance
4 of the evidence, that additional limitation is reasonably necessary to prevent or limit the
5 conveyance of biological, chemical, or nuclear agents to others. The court order shall
6 specify the period of time the limitation is to be continued and shall provide for
7 automatic termination of the order upon written determination by the State Health
8 Director or local health director that the ~~quarantine or isolation~~ limitation on freedom of
9 movement or access is no longer necessary to protect the public health. In addition,
10 where the petitioner can prove by a preponderance of the evidence that ~~quarantine or~~
11 ~~isolation~~ the limitation on freedom of movement or access was not or is no longer
12 needed for protection of the public health, the person ~~quarantined or isolated~~ so limited
13 may move the trial court to reconsider its order extending ~~quarantine or isolation~~ the
14 limitation on freedom of movement or access before the time for the order otherwise
15 expires and may seek immediate or expedited termination of the order. Before the
16 expiration of an order issued under this section, the State Health Director may move to
17 continue the order for additional periods not to exceed 30 days each."

18 **SECTION 39.** The Department of Transportation shall install highway
19 directional guide signs at the freeway ramp terminals for colleges or universities with a
20 campus located in North Carolina if the campus is within one mile from the freeway
21 ramp terminal, is licensed by the Board of Governors of The University of North
22 Carolina, offers both undergraduate and graduate degree programs, and has a minimum
23 of 350 students enrolled at the campus. The college or university requesting the sign
24 installment shall pay for all charges related to the construction of the sign.

25 **SECTION 40.** This act is effective when it becomes law.