

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 327\*  
Committee Substitute Favorable 5/31/05  
Senate Judiciary I Committee Substitute Adopted 8/23/05  
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Short Title: 2005 Technical Corrections Act.

(Public)

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Sponsors:

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Referred to:

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February 22, 2005

1 A BILL TO BE ENTITLED

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

6 The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 North Carolina

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 ~~(2)~~ because".

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

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

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

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

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

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

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

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

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

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

34          "(g)    A career State employee with:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

10

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

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

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

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

23 ~~North Carolina Boxing Commission."~~

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

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

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

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

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

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

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

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

36

37 **PART II. OTHER CHANGES**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 "(a) The Conference may:

16 .....

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

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

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

25 ...

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

38 ...."

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

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

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

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

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

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

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

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

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

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

4       ...

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

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

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

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

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

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

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

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

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

43       ...

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

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

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

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

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

19 **"§ 120-129. Definitions.**

20 As used in this Article:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

35 **NORTH CAROLINA STATE GOVERNMENT:**

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

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

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

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

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

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

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

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

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

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

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

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

- 35 (1) ~~Verified~~-Verified, before the issuance of a permit, by a criminal history  
 36 background investigation that it is not a violation of State or federal  
 37 law for the applicant to purchase, transfer, receive, or possess a  
 38 handgun. The sheriff shall determine the criminal and background  
 39 history of any applicant by accessing computerized criminal history  
 40 records as maintained by the State Bureau of Investigation and the  
 41 Federal Bureau of Investigation, by conducting a national criminal  
 42 history records check, by conducting a check through the National  
 43 Instant Criminal Background Check System (NICS), and by

1 conducting a criminal history check through the Administrative Office  
2 of the Courts.

3 (2) Fully satisfied himself or herself by affidavits, oral evidence, or  
4 otherwise, as to the good moral character of the applicant.

5 (3) Fully satisfied himself or herself that the applicant desires the  
6 possession of the weapon mentioned for (i) the protection of the home,  
7 business, person, family or property, (ii) target shooting, (iii)  
8 collecting, or (iv) hunting."

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

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

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

18 "(a) After a finding of probable cause pursuant to the provisions of Article 30 of  
19 Chapter 15A of the General Statutes or indictment for an offense that involves  
20 nonconsensual vaginal, anal, or oral ~~intereourse,~~ intercourse; an offense that involves  
21 vaginal, anal, or oral intercourse with a child 12 years old or ~~less,~~ less; or an offense  
22 under G.S. 14-202.1 that involves vaginal, anal, or oral intercourse with a child less than  
23 16 years old, the victim or the parent, guardian, or guardian ad litem of a minor victim  
24 may request that a defendant be tested for the following sexually transmitted infections:

- 25 (1) Chlamydia;
- 26 (2) Gonorrhea;
- 27 (3) Hepatitis B;
- 28 (3a) Herpes;
- 29 (4) HIV; and
- 30 (5) Syphilis.

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

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

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

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

- 40 a. The prisoner;
- 41 b. The district attorney of the district where the prisoner was  
42 convicted;
- 43 c. The head of the law enforcement agency that arrested the  
44 ~~prisoner, if the head of the agency has requested in writing that~~

~~he be notified;~~ prisoner and the sheriff of the county where the crime occurred;

- d. Any of the victim's immediate family members who have requested in writing to be notified; and
- e. Repealed by Session Laws 1993, c. 538, s. 22.
- f. As many newspapers of general circulation and other media in the county where the defendant was convicted and if different, in the county where the prisoner was charged, as reasonable.

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

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

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

**SECTION 35.3.** G.S. 20-7 reads as rewritten:

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

...

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

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

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

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

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

15 ...

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

27 A drivers license that was issued by the Division and is renewed by the Division  
28 expires five years after the expiration date of the license that is renewed unless the  
29 Division determines that a license of shorter duration should be issued when the  
30 applicant holds a visa of limited duration from the United States Department of ~~State.~~  
31 Homeland Security, but in no event shall the duration of the license be longer than the  
32 duration of the visa. A person may apply to the Division to renew a license during the  
33 180-day period before the license expires. The Division may not accept an application  
34 for renewal made before the 180-day period begins.

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

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

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

1        ...  
2        (s) Notwithstanding the requirements of subsection (b1) of this section that an  
3 applicant present a valid social security number, the Division shall issue a drivers  
4 license of limited duration, pursuant to subsection (f) of this section, to the spouse or  
5 dependent of a person present in the United States under a valid visa issued by the  
6 United States Department of Homeland Security if that applicant presents their own  
7 valid visa issued by the United States Department of Homeland Security."

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

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

- 20        a. Restaurants;
- 21        b. Hotels;
- 22        c. Eating establishments;
- 23        d. Private clubs;
- 24        e. Convention centers;
- 25        f. Cooking schools;
- 26        g. Community theatres;
- 27        h. ~~Wineries.~~ Wineries;
- 28        i. Wine Producers."

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

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

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

40        "**§ 20-114.2. Law enforcement motorized all-terrain vehicles permitted on**  
41 **highways with speed limits of 35 miles per hour or less.**

42        Law enforcement officers enforcing the laws of the State may use motorized  
43 all-terrain vehicles, as defined in G.S. 14-159.3(b) and owned or leased by the  
44 governmental agency, on public highways where the speed limit is 35 miles per hour or

1 less. Law enforcement officers may operate motorized all-terrain vehicles on nonfully  
 2 controlled access highways with higher speeds for the purpose of traveling from a speed  
 3 zone to an adjacent speed zone where the speed limit is 35 miles per hour or less."

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

6 "**§ 20-114.3. Law enforcement and municipal employee motorized all-terrain**  
 7 **vehicles permitted on highways with speed limits of 35 miles per hour or**  
 8 **less.**

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

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

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

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

20 "(c) Exceptions. – The following exceptions apply to G.S. 20-118(b) and  
 21 20-118(e).

22 ...  
 23 (14) Subsections (b) and (e) of this section do not apply to a vehicle that  
 24 meets all of the conditions below, but all other enforcement provisions  
 25 of this Article remain applicable:

- 26 a. Is hauling aggregates from a distribution yard or a  
 27 State-permitted production site located within a North Carolina  
 28 county contiguous to the North Carolina State border to a  
 29 destination in another state adjacent to that county as verified  
 30 by a weight ticket in the driver's possession and available for  
 31 inspection by enforcement personnel.
- 32 b. Does not operate on an interstate highway or posted bridge.
- 33 c. Does not exceed 69,850 pounds gross vehicle weight and  
 34 53,850 pounds per axle grouping for tri-axle vehicles. For  
 35 purposes of this subsection, a tri-axle vehicle is a single power  
 36 unit vehicle with a three consecutive axle group on which the  
 37 respective distance between any two consecutive axles of the  
 38 group, measured longitudinally center to center to the nearest  
 39 foot, does not exceed eight feet. For purposes of this subsection,  
 40 the tolerance provisions of subsection (h) of this section do not  
 41 apply, and vehicles must be licensed in accordance with  
 42 G.S. 20-88.
- 43 d. Repealed by Session Laws 2001-487, s. 10, effective December  
 44 16, 2001.



1 ...."

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

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

10 (1) have an affirmative defense to any criminal charge based upon the  
11 failure to return any registration card or registration plate to the  
12 Division;

13 (2) upon re-registration, receive without cost from the Division all  
14 necessary registration cards or plates; and

15 (3) upon notice of revocation, be permitted to transfer the vehicle's  
16 registration immediately to their spouse, child, or spouse's child,  
17 notwithstanding the provisions of subsection (e) of this section."

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

19 "(c) Public Sale. –

20 ...

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

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

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

27 ...."

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

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

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

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

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

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

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

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

11           ...

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

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

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

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

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

44           ...."

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

3           "(a) The register of deeds shall not accept for registration any instrument that  
4 requires proof or acknowledgement unless the execution of the instrument by one or  
5 more signers appears to have been proved or acknowledged before an officer with the  
6 apparent authority to take proofs or acknowledgements, and the said proof or  
7 acknowledgement includes the officer's signature, commission expiration date, and  
8 official seal, if required. The register of deeds shall accept an instrument for registration  
9 that does not require proof or acknowledgement if the instrument otherwise satisfies the  
10 requirements of G.S. 161-14. Any document previously recorded or any certified copy  
11 of any document previously recorded may be rerecorded, regardless of whether it is  
12 being rerecorded pursuant to G.S. 47-36.1. The register of deeds shall not be required to  
13 verify or make inquiry concerning (i) the legal sufficiency of any proof or  
14 acknowledgement, (ii) the authority of any officer who took a proof or  
15 acknowledgement, ~~or~~—(iii) the legal sufficiency of any document presented for  
16 registration-registration, or (iv) whether the original document has been changed or  
17 altered."

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

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

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

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

32           "**§ 51-1. Requisites of marriage; solemnization.**

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

- 36           (1) a. In the presence of an ordained minister of any religious  
37 denomination, a minister authorized by a church, a superior or  
38 district court judge of this State, or a magistrate; and  
39           b. With the consequent declaration by the ~~minister~~ minister, judge,  
40 or magistrate that the persons are husband and wife; or  
41           (2) In accordance with any mode of solemnization recognized by any  
42 religious denomination, or federally or State recognized Indian Nation  
43 or Tribe.

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

3 **SECTION 44.(a)** G.S. 55-8-03(b), as amended by Section 7 of S.L.  
4 2005-268, reads as rewritten:

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

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

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

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

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

28 **SECTION 44.(c)** G.S. 55-11-06(a)(1), as amended by Section 23 of S.L.  
29 2005-268, reads as rewritten:

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

33 **SECTION 44.(d)** G.S. 55A-11-04(d), as enacted by Section 40 of S.L.  
34 2005-268, reads as rewritten:

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

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

42 "**§ 55A-11-05. Effect of merger.**

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

- 1 (1) Each other merging corporation merges into the surviving corporation  
2 and the separate existence of each merging corporation except the  
3 surviving corporation ceases.
- 4 (2) The title to all real estate and other property owned by each merging  
5 corporation is vested in the surviving corporation without reversion or  
6 impairment subject to any and all conditions to which the property was  
7 subject prior to the merger.
- 8 (3) The surviving corporation has all liabilities and obligations of each  
9 merging corporation.
- 10 (4) A proceeding pending by or against any merging corporation may be  
11 continued as if the merger did not occur or the surviving corporation  
12 may be substituted in the proceeding for a merging corporation whose  
13 separate existence ceases in the merger.
- 14 (5) If a domestic corporation survives the merger, its articles of  
15 incorporation are amended to the extent provided in the articles of  
16 merger.
- 17 (6) If a foreign corporation or a foreign business corporation survives the  
18 merger, it is deemed:
  - 19 a. To agree that it may be served with process in this State in any  
20 proceeding for enforcement (i) of any obligation of any merging  
21 domestic corporation and (ii) of any obligation of the surviving  
22 foreign corporation or foreign business corporation arising from  
23 the merger.
  - 24 b. To have appointed the Secretary of State as its agent for service  
25 of process in any proceeding for enforcement as specified in  
26 sub-subdivision a. of this subdivision. Service of process on the  
27 Secretary of State shall be made by delivering to, and leaving  
28 with, the Secretary of State, or with any clerk authorized by the  
29 Secretary of State to accept service of process, duplicate copies  
30 of the process and the fee required by G.S. 55A-1-22(b). Upon  
31 receipt of service of process on behalf of a surviving foreign  
32 corporation or foreign business corporation in the manner  
33 provided for in this section, the Secretary of State shall  
34 immediately mail a copy of the process by registered or  
35 certified mail, return receipt requested, to the surviving foreign  
36 corporation or foreign business corporation. If the surviving  
37 foreign corporation or foreign business corporation is  
38 authorized to transact business or conduct affairs in this State,  
39 the address for mailing shall be its principal office designated in  
40 the latest document filed with the Secretary of State that is  
41 authorized by law to designate the principal office, or if there is  
42 no principal office on file, its registered office. If the surviving  
43 foreign corporation or foreign business corporation is not  
44 authorized to transact business or conduct affairs in this State,

1 the address for mailing shall be the mailing address designated  
2 pursuant to G.S. 55A-11-04(a)(2).

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

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

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

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

15 **SECTION 44.(g)** G.S. 57C-9A-02(a2), as enacted by Section 47 of S.L.  
16 2005-268, reads as rewritten:

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

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

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

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

35 **SECTION 44.5.(b)** G.S. 20-26 is amended by adding a new subsection to  
36 read:

37 "(g) A person, other than the driver, who obtains a license record under this  
38 section, shall not sell or redistribute the license record to another person."

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

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

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



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

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

"(a) The Commissioner, upon recommendation of the Director, or the North Carolina Occupational Safety and Health Review Commission in the case of an appeal, ~~may~~ shall have the authority to assess penalties against any employer who violates the requirements of this Article, or any standard, rule, or order ~~promulgated pursuant to adopted under~~ this Article, as follows:

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

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

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

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

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

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

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



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

Screening test of samples:

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

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

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

..."

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

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

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

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

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

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

- a. Mental and emotional health;
- b. Drug and alcohol abuse prevention;
- c. Nutrition;
- d. Dental health;
- e. Environmental health;
- f. Family living;
- g. Consumer health;
- h. Disease control;
- i. Growth and development;
- j. First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich

1 maneuver by using hands-on training with mannequins so that  
 2 students become proficient in order to pass a test approved by  
 3 the American Heart Association, or American Red Cross;

- 4 k. Preventing sexually transmitted diseases, including ~~Acquired~~  
 5 ~~Immune Deficiency Syndrome (AIDS) virus infection,~~  
 6 HIV/AIDS, and other communicable diseases;  
 7 l. Abstinence until marriage education; and  
 8 m. Bicycle safety.

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

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

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

36 (4) The State Board of Education shall evaluate abstinence until marriage  
 37 curricula and their learning materials and shall develop and maintain a  
 38 recommended list of one or more approved abstinence until marriage  
 39 curricula. The State Board may develop an abstinence until marriage  
 40 program to include on the recommended list. The State Board of  
 41 Education shall not select or develop a program for inclusion on the  
 42 recommended list that does not include the positive benefits of  
 43 abstinence until marriage and the risks of premarital sexual activity as  
 44 the primary focus. The State Board shall include on the recommended

list only programs that include, in appropriate grades and classes, instruction that:

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

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

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

"(7) Each school year, before students may participate in any portion of (i) a program that pertains to or is intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including ~~Acquired Immune Deficiency Syndrome (AIDS)~~, HIV/AIDS, or to the avoidance of out-of-wedlock pregnancy, (ii) an abstinence until marriage program, or (iii) a comprehensive sex education program, whether developed by the State or by the local board of education, the parents and legal guardians of

1 those students shall be given an opportunity to review the objectives  
2 and materials. Local boards of education shall adopt policies to  
3 provide opportunities either for parents and legal guardians to consent  
4 or for parents and legal guardians to withhold their consent to the  
5 students' participation in any or all of these programs.

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

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

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

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

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

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

40 **SECTION 57.(b)** G.S. 115C-375.2(g), as enacted by Section 1 of S.L.  
41 2005-22, reads as rewritten:

42 "(g) No local board of education, nor its members, employees, designees, agents,  
43 or volunteers, shall be liable in civil damages to any party for any act authorized by this

1 ~~subsection, section,~~ or for any omission relating to that act, unless that act or omission  
2 amounts to gross negligence, wanton conduct, or intentional wrongdoing."

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

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

8 **SECTION 58.** G.S. 115C-391.1(d)(3), as enacted by Section 2 of S.L.  
9 2005-205, reads as rewritten:

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

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

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

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

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

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

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

39 "**§ 143-55. Requisitioning for supplies by agencies; must purchase through sources**  
40 **certified.**

41 ~~After~~ Unless otherwise provided by law, ~~after~~ sources of supply have been  
42 established by contract and certified by the Secretary of Administration to the said  
43 departments, institutions and agencies as herein provided for, it shall be the duty of all  
44 departments, institutions and agencies to make requisition or issue orders on forms to be

1 prescribed by the Secretary of Administration, for all supplies, materials and equipment  
2 required by them upon the sources of supply so certified, and, except as herein  
3 otherwise provided for, it shall be unlawful for them, or any of them, to purchase any  
4 supplies, materials or equipment from other sources than those certified by the Secretary  
5 of Administration. One copy of such requisition or order shall be furnished to and when  
6 requested by the Secretary of Administration."

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

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

10 (1) At all times:

- 11 a. The State Legislative Building;
- 12 a1. Repealed by Session Laws 1998-156, s. 1, effective September  
13 24, 1998.
- 14 a2. The areas between the outer walls of the State Legislative  
15 Building and the far curblineline of those sections of Jones,  
16 Wilmington, Salisbury, and Lane Streets that border the land on  
17 which it is situated;
- 18 b. The Legislative Office Building, which shall include the  
19 following areas:
- 20 1. The garden area and outer stairway;
- 21 2. The loading dock area bounded by the wall on the east  
22 abutting the ~~State Government~~Halifax Street Mall, the  
23 southern edge of the southernmost exit lane on Salisbury  
24 Street for the parking deck, and the Salisbury Street  
25 sidewalk;
- 26 3. The area between its outer wall and the near curblineline of  
27 that section of Lane Street that borders the land on which  
28 it is situated; and
- 29 4. The area bounded by its western outer wall, the  
30 extension of a line along its northern outer wall to the  
31 middle of Salisbury Street, following the middle line of  
32 Salisbury Street to the nearest point of the intersection of  
33 Lane and Salisbury Streets, and thence east to the near  
34 curblineline of the Legislative Office Building at its  
35 southwestern corner;
- 36 c. Any State-owned parking lot which is leased to the General  
37 Assembly;
- 38 d. The bridge between the State Legislative Building and the ~~State~~  
39 ~~Governmental~~Halifax Street Mall; and
- 40 e. A portion of the brick sidewalk surface area of the ~~State~~  
41 ~~Government~~Halifax Street Mall, described as follows:  
42 beginning at the northeast corner of the Legislative Office  
43 Building, thence east across the brick sidewalk to the inner edge  
44 of the sidewalk adjacent to the grassy area of the Mall, thence

1 south along the inner edge of the sidewalk to the southwest  
2 outer corner of the ~~Mall water fountain~~, grassy area of the Mall,  
3 thence east along the inner edge of the sidewalk adjacent to the  
4 southern outer edge of the ~~fountain~~ grassy area of the Mall to a  
5 point north of the northeast corner of the pedestrian surface of  
6 the Lane Street pedestrian bridge, thence south from that point  
7 to the northeast corner of the pedestrian surface of the bridge,  
8 thence west along the southern edge of the brick sidewalk area  
9 of the Mall to the southeast corner of the Legislative Office  
10 Building, thence north along the east wall of the Legislative  
11 Office Building, to the point of beginning.

12 f. From the center of Lane Street to the far curblin  
13 side of the street; between the western edge of the Lane Street  
14 driveway to the gardens behind the State Records Center, and  
15 Wilmington Street.

16 (2) Repealed by Session Laws 1998-156, s. 1, effective September 24,  
17 1998."

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

19 **"§ 122C-270. Attorneys to represent the respondent and the State.**

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

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

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

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

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

12 (f) The Attorney General may employ four attorneys, one to be assigned by him  
13 full-time to each of the State facilities for the mentally ill, to represent the State's  
14 interest at commitment hearings, rehearings and supplemental hearings held under this  
15 Article at the State facilities for respondents admitted to those facilities pursuant to Part  
16 3, 4, 7, or 8 of this Article or G.S. 15A-1321 and to provide liaison and consultation  
17 services concerning these matters. These attorneys are subject to Chapter 126 of the  
18 General Statutes and shall also perform additional duties as may be assigned by the  
19 Attorney General. The attorney employed by the Attorney General in accordance with  
20 G.S. 114-4.2B shall represent the State's interest at commitment hearings, rehearings  
21 and supplemental hearings held for respondents admitted to the University of North  
22 Carolina Hospitals at Chapel Hill pursuant to Part 3, 4, 7, or 8 of this Article or  
23 G.S. 15A-1321."

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

25 "**§ 122C-289. Duty of assigned counsel; discharge.**

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

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

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

36 "**§ 130A-209. Incidence reporting of cancer; charge for collection if failure to**  
37 **report.**

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



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

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

- 15 (1) "Health care facility" or "facility" means any hospital, clinic, or other  
16 facility that is licensed to administer medical treatment or the primary  
17 function of which is to provide medical treatment in this State. The  
18 term includes health care facility laboratories and independent  
19 pathology laboratories;
- 20 (2) "Health care provider" or "provider" means any person who is licensed  
21 or certified to practice a health profession or occupation under Chapter  
22 90 of the General Statutes and who diagnoses or treats ~~cancer~~cancer  
23 or benign brain or central nervous system tumors."

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

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

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

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

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

5           **SECTION 64.(b)** G.S. 131E-14.2(d), as amended by Section 1 of S.L.  
6 2005-70, reads as rewritten:

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

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

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

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

39       "**§ 135-40.13A. Liability of third person; right of subrogation; right of first**  
40 **recovery.**

41       (a) ~~Whenever the Plan pays benefits for hospital, surgical, medical, or~~  
42 ~~prescription drug expenses, with respect to any Plan member, the Plan shall be~~  
43 ~~subrogated, to the extent of any payments under the Plan, to all of the Plan member's~~  
44 ~~rights of recovery against liable third parties, regardless of the entity or individual from~~

1 ~~whom recovery may be due.~~The Plan shall have the right of subrogation upon all of the  
2 Plan member's right to recover from a liable third party for payment made under the  
3 Plan, for all medical expenses, including provider, hospital, surgical, or prescription  
4 drug expenses, to the extent those payments are related to an injury caused by a liable  
5 third party. The Plan member shall do nothing to prejudice these rights. The Plan has  
6 the right to first recovery on any amounts so recovered, whether by the Plan or the Plan  
7 member, and whether recovered by litigation, arbitration, mediation, settlement, or  
8 otherwise. Notwithstanding any other provision of law to the contrary, the recovery  
9 limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's right of subrogation of  
10 Plan members.

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

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

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

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

33 "(a) When the death of a person is caused by a wrongful act, neglect or default of  
34 another, such as would, if the injured person had lived, have entitled him to an action  
35 for damages therefor, the person or corporation that would have been so liable, and his  
36 or their personal representatives or collectors, shall be liable to an action for damages, to  
37 be brought by the personal representative or collector of the decedent; and this  
38 notwithstanding the death, and although the wrongful act, neglect or default, causing the  
39 death, amounts in law to a felony. The personal representative or collector of the  
40 decedent who pursues an action under this section may pay from the assets of the estate  
41 the reasonable and necessary expenses, not including attorneys' fees, incurred in  
42 pursuing the action. At the termination of the action, any amount recovered shall be  
43 applied first to the reimbursement of the estate for the expenses incurred in pursuing the  
44 action, then to the payment of attorneys' fees, and shall then be distributed as provided

1 in this section. The amount recovered in such action is not liable to be applied as assets,  
2 in the payment of debts or legacies, except as to burial expenses of the deceased, and  
3 reasonable hospital and medical expenses not exceeding four thousand five hundred  
4 dollars (\$4,500) incident to the injury resulting in death, except that the amount applied  
5 for hospital and medical expenses shall not exceed fifty percent (50%) of the amount of  
6 damages recovered after deducting attorneys' fees, but shall be disposed of as provided  
7 in the Intestate Succession Act. The limitations on recovery for hospital and medical  
8 expenses under this subsection do not apply to subrogation rights exercised pursuant to  
9 G.S. 135-40.13A. All claims filed for such services shall be approved by the clerk of the  
10 superior court and any party adversely affected by any decision of said clerk as to said  
11 claim may appeal to the superior court in term time."

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

16 **SECTION 66.5.** G.S. 136-89.183(a)(2), as amended by S.L. 2005-275, reads  
17 as rewritten:

18 "(2) To study, plan, develop, and undertake preliminary design work on up  
19 to nine Turnpike Projects. At the conclusion of these activities, the  
20 Turnpike Authority is authorized to design, establish, purchase,  
21 construct, operate, and maintain up to nine Turnpike Projects. One of  
22 the Turnpike Projects shall be located in whole or in part in a county  
23 with a population equal to or greater than 650,000 persons, according  
24 to the latest decennial census, and one Turnpike Project shall be  
25 located in a county or counties that each have a population of fewer  
26 than 650,000 persons, according to the latest decennial census. One of  
27 the Turnpike Projects shall be a bridge of more than two miles in  
28 length going from the mainland to a peninsula bordering the State of  
29 Virginia. A Turnpike Project selected for construction by the Turnpike  
30 Authority shall be included in any applicable locally adopted  
31 comprehensive transportation plans and shall be shown in the current  
32 State Transportation Improvement Plan prior to the letting of a  
33 contract for the Turnpike Project. The Turnpike Authority shall  
34 develop a comprehensive list of all projects it intends to construct  
35 pursuant to this subdivision that have not been previously approved by  
36 the Authority as of August 15, 2005, or specifically designated by law.  
37 The projects on the list shall be approved by the General Assembly  
38 prior to their construction. The Turnpike Authority shall not substitute  
39 a project approved before August 15, 2005, for a project approved  
40 after that date."

41 **SECTION 67.** G.S. 143-3.3(g), as amended by Section 6.35 of S.L.  
42 2005-276, reads as rewritten:

43 "(g) Payroll Deduction for Payments to Certain Employees' Associations Allowed.  
44 – An employee of the State or any of its political subdivisions, institutions, departments,

1 bureaus, agencies or commissions, or any of its local boards of education or community  
2 colleges, who is a member of a domiciled employees' association that has at least 2,000  
3 members, 500 of whom are employees of the State, a political subdivision of the State,  
4 or public school employees, may authorize, in writing, the periodic deduction each  
5 payroll period from the employee's salary or wages a designated lump sum to be paid to  
6 the employees' association. A political subdivision may also allow periodic deductions  
7 for a domiciled employees' association that does not otherwise meet the minimum  
8 membership requirements set forth in this paragraph.

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

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

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

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

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

- 27 a. A flue-cured tobacco farmer.
- 28 b. A flue-cured tobacco farmer.
- 29 c. A person in or displaced from tobacco-related employment.
- 30 d. An at-large appointee.
- 31 e. An at-large appointee.
- 32 f. An at-large appointee.

33 (2) The President Pro Tempore of the Senate shall make the following  
34 appointments:

- 35 a. A flue-cured tobacco farmer.
- 36 b. A flue-cured tobacco farmer.
- 37 c. ~~A burley allotment holder who is also a burley tobacco farmer.~~
- 38 d. An at-large appointee.
- 39 e. An at-large appointee.
- 40 f. An at-large appointee.

41 (3) The Speaker of the House of Representatives shall make the following  
42 appointments:

- 43 a. A flue-cured tobacco farmer.

- 1                   b.     A former flue-cured allotment holder who is not also a
- 2                             flue-cured tobacco farmer.
- 3                   c.     A burley tobacco farmer.
- 4                   d.     An at-large appointee.
- 5                   e.     An at-large appointee.
- 6                   f.     An at-large appointee.

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

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

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

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

- 21           (1) Two ~~optometrists and~~ optometrists, two ophthalmologists, and one  
22           pediatrician, each of whom is licensed to practice in this State,  
23           appointed by the Governor;
- 24           (2) One optometrist licensed to practice in this State appointed by the  
25           General Assembly upon the recommendation of the Speaker of the  
26           House of Representatives; and
- 27           (3) One ophthalmologist licensed to practice in this State appointed by the  
28           General Assembly upon the recommendation of the President Pro  
29           Tempore of the Senate.

30          The initial members appointed by the General Assembly shall each serve a one-year  
31 term. The initial members appointed by the Governor shall each serve a two-year term.  
32 Subsequent appointments shall be for three-year terms. Vacancies shall be filled by the  
33 original appointing authority."

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

35          "**§ 143B-437.51. Definitions.**

36          The following definitions apply in this Part:

- 37           (1) Agreement. – A community economic development agreement under  
38           G.S. 143B-437.57.
- 39           (2) ~~Base years period.~~ – ~~The first 24 months following the date set by the~~  
40           ~~Committee for performance to begin under the agreement period of~~  
41           time set by the Committee during which new employees are to be  
42           hired for the positions on which the grant shall be based.
- 43           (3) Business. – A corporation, sole proprietorship, cooperative association,  
44           partnership, S corporation, limited liability company, nonprofit

1 corporation, or other form of business organization, located either  
2 within or outside this State.

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

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

8 (5a) Enterprise tier. – The classification assigned to an area pursuant to  
9 G.S. 105-129.3.

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

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

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

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

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

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

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

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

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

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

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

- 1 (1) The name of the business, the proposed location of the project, and the  
2 type of activity in which the business will engage at the project site or  
3 sites.
- 4 (2) The names and addresses of the principals or management of the  
5 business, the nature of the business, and the form of business  
6 organization under which it is operated.
- 7 (3) The financial statements of the business prepared by a certified public  
8 accountant and any other financial information the Committee  
9 considers necessary.
- 10 (4) The number of eligible positions proposed to be created ~~during the~~  
11 ~~base years and thereafter~~ for the project and the salaries for these  
12 positions."

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

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

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

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

- 21 (1) A detailed description of the proposed project that will result in job  
22 creation and the number of new employees to be hired ~~in~~ during the  
23 ~~base years and later years~~ period.
- 24 (2) The term of the grant and the criteria used to determine the first year  
25 for which the grant may be claimed.
- 26 (3) The number of eligible positions that are subjects of the grant and a  
27 description of those positions and the location of those positions.
- 28 (4) The amount of the grant based on a percentage of withholdings.
- 29 (5) A method for determining the number of new employees hired during  
30 a grant year.
- 31 (6) A method for the business to report annually to the Committee the  
32 number of eligible positions for which the grant is to be made.
- 33 (7) A requirement that the business report to the Committee annually the  
34 aggregate amount of withholdings during the grant year.
- 35 (8) A provision permitting an audit of the payroll records of the business  
36 by the Committee from time to time as the Committee considers  
37 necessary.
- 38 (9) A provision that requires the Committee to amend an agreement  
39 pursuant to G.S. 143B-437.59.
- 40 (10) A provision that requires the business to maintain operations at the  
41 project location or another location approved by the Committee for at  
42 least one hundred fifty percent (150%) of the term of the grant and a  
43 provision to permit the Committee to recapture all or part of the grant



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

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

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

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

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

27 "**§ 145-23. State birthplace of traditional pottery.**

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

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

32 "**§ 147-33.72F. Procurement procedures; cost savings.**

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

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

42 "**§ 147-33.97. Information technology procurement policy; reporting**  
43 **requirements.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **"§ 160A-164.2. Criminal history record check of employees permitted.**

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

19 **SECTION 74.** G.S. 160A-270(c), as amended by Section 4 of S.L.  
20 2005-227, reads as rewritten:

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

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

35 **"§ 160A-459. Stormwater control.**

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

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

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

1 **"§ 163-132.1B. Participation in 2010 Census Redistricting Data Program of the**  
2 **United States Bureau of the Census.**

3 (a) Purpose. – The State of North Carolina shall participate in the 2010 Census  
4 Redistricting Data Program, conducted pursuant to P.L. 94-171, of the United States  
5 Bureau of the Census, so that the State will receive 2010 Census data by voting precinct  
6 and be able to revise districts at all levels without splitting precincts and in compliance  
7 with the United States and North Carolina Constitutions and the Voting Rights Act of  
8 1965, as amended.

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

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

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

- 34 (1) That the vendor post a bond or letter of credit to cover damages  
35 resulting from defects in the voting system. Damages shall include,  
36 among other items, any costs of conducting a new election attributable  
37 to those defects.
- 38 (2) That the voting system comply with all federal requirements for voting  
39 systems.
- 40 (3) That the voting system must have the capacity to include in precinct  
41 returns the votes cast by voters outside of the voter's precinct as  
42 required by G.S. 163-132.5G.
- 43 (4) With respect to electronic voting systems, that the voting system  
44 generate a paper record of each individual vote cast, which paper

1 record shall be maintained in a secure fashion and shall serve as a  
2 backup record for purposes of any hand-to-eye count, hand-to-eye  
3 recount, or other audit. Electronic systems that employ optical scan  
4 technology to count paper ballots shall be deemed to satisfy this  
5 requirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

3           **SECTION 76.5.(a)** G.S. 163-234 is amended by adding a new subdivision to  
4 read:

5           "(2a) Notwithstanding the provisions of subdivision (2) of this section, a  
6           county board of elections may, at each meeting at which it approves  
7           absentee ballot applications pursuant to G.S. 163-230.1(c) and (c1),  
8           remove those ballots from their envelopes and have them read by an  
9           optical scanning machine, without printing the totals on the scanner.  
10           The board shall complete the counting of these ballots at the times  
11           provided in subdivision (2) of this section. The State Board of  
12           Elections shall provide instructions to county boards of elections for  
13           executing this procedure, and the instructions shall be designed to  
14           ensure the accuracy of the count, the participation of board members  
15           of both parties, and the secrecy of the results before election day. This  
16           subdivision applies only in counties that use optical scan devices to  
17           count absentee ballots."

18           **SECTION 76.5.(b)** G.S. 163-82.15(a) reads as rewritten:

19           "(a) Registrant's Duty to Report. – No registered voter shall be required to  
20 re-register upon moving from one precinct to another within the same county. Instead, a  
21 registrant shall notify the county board of the change of address by the close of  
22 registration for an election as set out in G.S. 163-82.6(c). In addition to any other  
23 method allowed by G.S. 163-82.6, the form may be submitted by electronic facsimile,  
24 under the same deadlines as if it had been submitted in person. The registrant shall make  
25 the notification by means of a voter registration form as described in G.S. 163-82.3, or  
26 by another written notice, signed by the registrant, that includes the registrant's full  
27 name, former residence address, new residence address, and ~~date of moving the~~  
28 registrant's attestation that the registrant moved at least 30 days before the next primary  
29 or election from the old to the new address."

30           **SECTION 76.5.(c)** If House Bill 1115, 2005 Regular Session, becomes law,  
31 then G.S. 163-57(1) as amended by Section 3.(b) of that act, reads as rewritten:

32           "(1) That place shall be considered the residence of a person in which that  
33 person's habitation is fixed, and to which, whenever that person is  
34 absent, has the intention of returning.

35           a. In the event that a person's habitation is divided by a State,  
36 county, municipal, precinct, ward, or other election district, then  
37 the location of the bedroom or usual sleeping area for that  
38 person with respect to the location of the boundary line at issue  
39 shall be controlling as the residency of that person.

40           b. If the person disputes the determination of residency, the person  
41 may request a hearing before the county board of elections  
42 making the determination of residency. The procedures for  
43 notice of hearing and the conduct of the hearing shall be as  
44 provided in G.S. 163-86. The presentation of an accurate and

1 current determination of a person's residence and the boundary  
 2 line at issue by map or other means available shall constitute  
 3 prima facie evidence of the geographic location of the residence  
 4 of that person.

5 c. If a person's residence is not a traditional residence such as a  
 6 house or apartment, then the location of the person's usual  
 7 sleeping area shall be controlling as to the residence of that  
 8 person. Residence requirements shall be broadly construed to  
 9 provide all persons with the opportunity to register and to vote.  
 10 As with other voters, voters with nontraditional residences may  
 11 report a mailing address that is different from their residence  
 12 address."

13 **SECTION 76.5.(d)** Article 8 of Chapter 163 of the General Statutes reads as  
 14 rewritten:

15 "Article 8.  
 16 "Challenges.

17 **"§ 163-84. Time for challenge other than on day of primary or election.**

18 ~~The registration records of each county shall be open to inspection by any registered~~  
 19 ~~voter of the county, including any chief judge or judge of elections, during the normal~~  
 20 ~~business hours of the county board of elections on the days when the board's office is~~  
 21 ~~open. At those times the right of any person to register, remain registered, or vote shall~~  
 22 ~~be subject to objection and challenge. The right of voters to register, remain registered,~~  
 23 ~~and vote may be challenged as provided in this Article.~~

24 **"§ 163-85. Challenge procedure other than on day of primary or election.**

25 (a) Right to Challenge; When Challenge May Be Made. – Any registered voter  
 26 of the county may challenge the right of any person to register, remain registered or vote  
 27 in ~~such that~~ county. No such challenge with regard to a particular primary, general, or  
 28 special election may be made after the twenty-fifth day before ~~each that~~ primary,  
 29 general, or special election.

30 (b) Challenges Shall Be Made to the County Board of Elections. – Each  
 31 challenge to a person shall be made separately, in writing, under oath and on forms  
 32 prescribed by the State Board of Elections, and shall specify the reasons why the  
 33 challenged voter is not entitled to register, remain registered, or vote. ~~When a challenge~~  
 34 ~~is made, the board of elections shall cause the word "challenged" to be written in pencil~~  
 35 ~~on the registration records of the voter challenged.~~ The challenge shall be signed by the  
 36 challenger and shall set forth the challenger's address.

37 (c) Grounds for Challenge. – Such challenge may be made only for one or more  
 38 of the following reasons:

- 39 (1) That a person is will not have been a resident ~~of the State of North~~  
 40 ~~Carolina, or~~ at the address where the person claims residence for 30  
 41 days or more at the time of the next election.
- 42 (2) ~~That a person is not a resident of the county in which the person is~~  
 43 ~~registered, provided that no such challenge may be made if the person~~



1 removed his residency and the period of removal has been less than 30  
2 days, or

3 (3) ~~That a person is not a resident of the precinct in which the person is~~  
4 ~~registered, provided that no such challenge may be made if the person~~  
5 ~~removed his residency and the period of removal has been less than 30~~  
6 ~~days, or~~

7 (4) That a person is not 18 years of age, or if the challenge is made within  
8 60 days before a primary, that the person will not be 18 years of age by  
9 the next general ~~election, or~~election.

10 (5) That a person has been adjudged guilty of a felony and is ineligible to  
11 vote under ~~G.S. 163-55(2), or~~G.S. 163-55(2).

12 (6), (7) Repealed by Session Laws 1985, c. 563, ss. 11.1, 11.2.

13 (7a) That a person is ~~dead, dead.~~

14 (8) That a person is not a citizen of the United States, ~~or~~States.

15 (9) ~~With respect to municipal registration only, that a person is not a~~  
16 ~~resident of the municipality in which the person is registered.~~

17 (d) Preliminary Hearing. – When a challenge is made, the county board of  
18 ~~election elections~~ shall schedule a preliminary hearing on the challenge, and shall take  
19 ~~such that~~ testimony under oath and receive such other evidence proffered by the  
20 challenger as may be offered. The burden of proof shall be on the challenger, and if no  
21 testimony is presented, the board shall dismiss the challenge. If the challenger presents  
22 evidence and if the board finds that probable cause exists that the person challenged is  
23 not qualified to vote, then the board shall schedule a hearing on the challenge. If the  
24 challenge is made for the reason stated in subdivision (1) of subsection (c) of this  
25 section and the registrant acknowledges that the address on the registration records is  
26 incorrect but the board finds that the registration records can be corrected so that the  
27 voter can vote the proper ballot in the coming election, the board shall not schedule a  
28 hearing on the challenge but shall correct the records, and the voter shall be allowed to  
29 vote the proper ballot.

30 (e) Prima Facie Evidence That Voter No Longer Resides ~~in Precinct.~~ at an  
31 Address. – The presentation of a letter mailed by returnable first-class mail to the voter  
32 at the address listed on the voter registration card and returned because the person does  
33 not live at the address shall constitute prima facie evidence that the person no longer  
34 resides ~~in the precinct at that address.~~

35 **"§ 163-86. Hearing on challenge.**

36 (a) A challenge made under G.S. 163-85 shall be heard and decided before the  
37 date of the next primary or election, except that if the board finds that because of the  
38 number of challenges, it cannot hold all hearings before the date of the election, it may  
39 order the challenges to be heard and decided at the next time the challenged person  
40 appears and seeks to vote, as if the challenge had been filed under G.S. 163-87. Unless  
41 the hearing is ordered held under G.S. 163-87, it shall be heard and decided by the  
42 board of elections.

43 (b) At least 10 days prior to the hearing scheduled under G.S. 163-86(c), the  
44 board of elections shall mail by first-class mail, a written notice of the challenge to the

1 challenged voter, to the address of the voter listed in the registration records of the  
2 county. The notice shall state succinctly the grounds asserted, and shall state the time  
3 and place of the hearing. ~~If the hearing is to be held at the polls, the notice shall state~~  
4 ~~that fact and shall list the date of the next scheduled election, the location of the voter's~~  
5 ~~polling place, and the time the polls will be open.~~ A copy of the notice shall be sent to  
6 the person making the challenge and to the ~~chairman~~ chair of each political party in the  
7 county.

8 (c) At the time and place set for the hearing on a challenge entered prior to the  
9 date of a primary or election, the county board of elections shall explain to the  
10 challenged registrant the qualifications for registration and voting in this State. The  
11 board chairman, or in his absence the board secretary, shall then administer the  
12 following oath to the challenged registrant:

13 "You swear (or affirm) that the statements and information you shall give in this  
14 hearing with respect to your identity and qualifications to be registered and to vote shall  
15 be the truth, the whole truth, and nothing but the truth, so help you, God."

16 After swearing the challenged registrant, the board shall examine ~~him~~ that person as to  
17 ~~his~~ that person's qualifications to be registered and to vote. If the challenged registrant  
18 insists ~~that he is on being~~ qualified, the board shall tender to ~~him~~ the challenged  
19 registrant the following oath or affirmation:

20 "You do solemnly swear (or affirm) that you are a citizen of the United States; that  
21 you are at least 18 years of age or will become 18 by the date of the next general  
22 election; that you have or will have resided ~~in this State and in the precinct for which~~  
23 ~~registered~~ at the residence listed on your registration record for 30 days by the date of  
24 the next general election; that you are not disqualified from voting by the Constitution  
25 or the laws of this State; that your name is \_\_\_\_\_, and that in such name you  
26 were duly registered as a voter of \_\_\_\_\_ ~~precinct;~~ at the address listed on the voter  
27 registration records; and that you are the person you represent yourself to be, so help  
28 you, God."

29 If the challenged registrant refuses to take the tendered oath, or submit to the board the  
30 affidavit required by subsection (d), below, the challenge shall be sustained. If the  
31 challenged registrant takes the tendered oath, the board may, nevertheless, sustain the  
32 challenge if it finds the challenged registrant is not a legal voter.

33 The board, in conducting hearings on challenges, shall have authority to subpoena  
34 any witnesses it may deem appropriate, and administer the necessary oaths or  
35 affirmations to all witnesses brought before it to testify to the qualifications of the  
36 persons challenged.

37 (d) Appearance by Challenged Registrant. – The challenged registrant shall  
38 appear in person at the challenge hearing. If ~~he~~ the challenged registrant is unable to  
39 appear in person, ~~he~~ that person may be represented by another person and must tender  
40 to the county board of elections an affidavit that ~~he~~ the challenged registrant is a citizen  
41 of the United States, is at least 18 years of age or will become 18 by the date of the next  
42 general election, has or will have resided ~~in this State and in the precinct for which~~  
43 ~~registered~~ at the address listed on the registration record for 30 days by the date of the  
44 next general election, is not disqualified from voting by the Constitution or laws of this

1 State, is named \_\_\_\_\_ and was duly registered as a voter of \_\_\_\_\_ precinct  
2 in such name, and is the person represented to be by the affidavit.

3 **"§ 163-87. Challenges allowed on day of primary or election.**

4 On the day of a primary or election, at the time a registered voter offers to vote, any  
5 other registered voter of the precinct may exercise the right of challenge, and when he  
6 does so may enter the voting enclosure to make the challenge, but he shall retire  
7 therefrom as soon as the challenge is heard.

8 On the day of a primary or election, any other registered voter of the precinct may  
9 challenge a person for one or more of the following reasons:

- 10 (1) One or more of the reasons listed in G.S. 163-85(c), or  
11 (2) That the person has already voted in that primary or election, or  
12 (3) That the person ~~presenting himself to vote is not who he represents~~  
13 ~~himself is not who the person claims to be.~~

14 ~~On the day of a party primary, any voter of the precinct who is registered as a~~  
15 ~~member of the political party conducting the primary may, at the time any registrant~~  
16 ~~proposes to vote, challenge his right to vote upon the ground that he does not affiliate~~  
17 ~~with the party conducting the primary or does not in good faith intend to support the~~  
18 ~~candidates nominated in that party's primary, and it shall be the duty of the chief judge~~  
19 ~~and judges of election to determine whether or not the challenged registrant has a right~~  
20 ~~to vote in that primary according to the procedures prescribed in G.S. 163-88; provided~~  
21 ~~that no challenge may be made on the grounds specified in the paragraph against an~~  
22 ~~unaffiliated voter voting in the primary under G.S. 163-74(a1).~~

23 The chief judge, judge, or assistant appointed under G.S. 163-41 or 163-42 may  
24 enter challenges under this section against voters in the precinct for which appointed  
25 regardless of the place of residence of the chief judge, judge, or assistant.

26 If a person is challenged under this subsection, and the challenge is sustained under  
27 ~~G.S. 163-85(e)(3), 163-85(c)(1),~~ the voter may still transfer his registration under  
28 G.S. 163-82.15(e) if eligible under that section, and the registration shall not be  
29 cancelled under G.S. 163-90.2(a) if the transfer is made. A person who has transferred  
30 his registration under G.S. 163-82.15(e) may be challenged at the precinct to which the  
31 registration is being transferred.

32 **"§ 163-88. Hearing on challenge made on day of primary or election.**

33 A challenge entered on the day of a primary or election shall be heard and decided  
34 ~~by the chief judge and judges of election of the precinct in which the challenged~~  
35 ~~registrant is registered before the polls are closed on the day the challenge is made.~~  
36 ~~When the challenge is heard the precinct officials conducting the hearing shall explain~~  
37 ~~to the challenged registrant the qualifications for registration and voting in this State,~~  
38 ~~and shall examine him as to his qualifications to be registered and to vote. If the~~  
39 ~~challenged registrant insists that he is qualified, and if, by sworn testimony, he shall~~  
40 ~~prove his identity with the person in whose name he offers to vote and his continued~~  
41 ~~residence in the precinct since he was registered, one of the judges of election or the~~  
42 ~~chief judge shall tender to him the following oath or affirmation, omitting the portions~~  
43 ~~in brackets if the challenge is heard on the day of an election other than a primary:~~

1       ~~"You do solemnly swear (or affirm) that you are a citizen of the United States; that~~  
2 ~~you are at least 18 years of age [or will become 18 by the date of the next general~~  
3 ~~election]; that you have [or will have] resided in this State and in the precinct for which~~  
4 ~~registered for 30 days [by the date of the next general election]; that you are not~~  
5 ~~disqualified from voting by the Constitution and laws of this State; that your name~~  
6 ~~is \_\_\_\_\_, and that in such name you were duly registered as a voter of this~~  
7 ~~precinct; that you are the person you represent yourself to be; [that you are affiliated~~  
8 ~~with the \_\_\_\_\_ party]; and that you have not voted in this [primary] election at~~  
9 ~~this or any other voting place. So help you, God."~~

10       ~~If the challenged registrant refuses to take the tendered oath, the challenge shall be~~  
11 ~~sustained, and the precinct officials conducting the hearing shall mark the registration~~  
12 ~~records to reflect their decision, and they shall erase the challenged registrant's name~~  
13 ~~from the pollbook if it has been entered therein. If the challenged registrant takes the~~  
14 ~~tendered oath, the precinct officials conducting the hearing may, nevertheless, sustain~~  
15 ~~the challenge unless they are satisfied that the challenged registrant is a legal voter. If~~  
16 ~~they are satisfied that he is a legal voter, they shall overrule the challenge and permit~~  
17 ~~him to vote. Whenever any person's vote is received after having taken the oath~~  
18 ~~prescribed in this section, the chief judge or one of the judges of election shall write on~~  
19 ~~the registration record and on the pollbook opposite the registrant's name the word~~  
20 ~~"sworn."~~

21       ~~Precinct election officials conducting hearings on challenges on the day of a primary~~  
22 ~~or election shall have authority to administer the necessary oaths or affirmations to all~~  
23 ~~witnesses brought before them to testify to the qualifications of the person challenged.~~  
24 ~~by the county board of elections on the day set for the county canvass. When the~~  
25 ~~challenge is made at the voting place, the chief judge shall, in a manner that minimizes~~  
26 ~~disruption to the voting place, explain to the challenged registrant and to the challenger~~  
27 ~~the process by which the county board of elections will decide the challenge. The chief~~  
28 ~~judge shall allow the voter to complete a challenged ballot as provided in G.S. 163-88.1.~~  
29 ~~The chief judge shall transmit the documentation of the challenge, including the~~  
30 ~~challenged ballot, to the county board of elections according to procedures that shall be~~  
31 ~~prescribed by the State Board of Elections. On the day of the canvass, the county board~~  
32 ~~shall conduct a hearing on the challenge according to procedures set forth in subsections~~  
33 ~~(c) and (d) of G.S. 163-86.~~

34       ~~A letter or postal card mailed by returnable mail and returned by the United States~~  
35 ~~Postal Service purportedly because the person no longer lives at that address or because~~  
36 ~~a forwarding order has expired shall not be admissible evidence in a challenge heard~~  
37 ~~under this section which was made under G.S. 163-87.~~

38       ~~"§ 163-88.1. Request for challenged ballot.~~

39       ~~(a) If the decision of the chief judge and judges pursuant to G.S. 163-88 is to~~  
40 ~~sustain the challenge, the challenged voter~~ A voter challenged under G.S. 163-88 may  
41 request a challenged ballot by submitting an application to the chief judge, such judge.  
42 The application shall include as part thereof an affidavit that such the person possesses  
43 all the qualifications for voting and is entitled to vote at the election. The form of such

1 the affidavit shall be prescribed by the State Board of Elections and shall be available at  
2 the polls.

3 (b) ~~Any person requesting a challenged ballot shall have the letter "C" entered at~~  
4 ~~the appropriate place on the voter's permanent registration record. The voter's name~~  
5 ~~shall be entered on a separate page in the pollbook entitled "Challenged Ballot," and~~  
6 ~~serially numbered. The challenged ballot shall be the same type of ballot used for~~  
7 ~~absentee voters, and the chief judge shall write across the top of the ballot "Challenged~~  
8 ~~Ballot #\_\_\_\_," and shall insert the same serial number as entered in the pollbook. The~~  
9 ~~chief judge shall deliver to such voter a challenged ballot together with an envelope~~  
10 ~~marked "Challenged Ballot" and serially numbered. The challenged voter shall~~  
11 ~~forthwith mark the ballot in the presence of the chief judge in such manner that the chief~~  
12 ~~judge shall not know how the ballot is marked. He shall then fold the ballot in the~~  
13 ~~presence of the chief judge so as to conceal the markings and deposit and seal it in the~~  
14 ~~serially numbered envelope. He shall then deliver such envelope to the chief judge. The~~  
15 ~~chief judge shall retain all such envelopes in an envelope provided by the county board~~  
16 ~~of elections, which he shall seal immediately after the polls close, and deliver to the~~  
17 ~~board chairman at the canvass.~~The State Board of Elections shall adopt rules for the  
18 recording, transmission, and security of challenged ballots, to which the county boards  
19 of elections shall adhere.

20 (c) ~~The chairman of the county board of elections shall preserve such challenged~~  
21 ~~ballots in the sealed envelopes for a period of six months after the election. However, in~~  
22 ~~the case of a contested election, an election protest, either party to such action may~~  
23 ~~request the court to order that the sealed envelopes containing challenged ballots be~~  
24 ~~delivered to the board of elections by the chairman. If so ordered, the board of elections~~  
25 ~~shall then to convene and consider each challenged ballot and rule as to which ballots~~  
26 ~~shall be counted. In such that consideration, the board may take such further evidence as~~  
27 ~~it deems necessary, and shall have the power of subpoena. If any ballots are ordered to~~  
28 ~~be counted, they shall be added to the vote totals.~~

29 **"§ 163-89. Procedures for challenging absentee ballots.**

30 (a) Time for Challenge. – ~~The absentee ballot of any voter may be challenged on~~  
31 ~~the day of any statewide primary or general election or county bond election beginning~~  
32 ~~no earlier than noon and ending no later than 5:00 P.M., or by the chief judge at the time~~  
33 ~~of closing of the polls as provided in G.S. 163-232 and G.S. 163-251(b).~~

34 (b) Who May Challenge. – Any registered voter of the same precinct as the  
35 address the absentee voter claims on the affidavit may challenge that voter's absentee  
36 ballot.

37 (c) Form and Nature of Challenge. – Each challenged absentee ballot shall be  
38 challenged separately. The burden of proof shall be on the challenger. Each challenge  
39 shall be made in writing and, if they are available, shall be made on forms prescribed by  
40 the State Board of Elections. Each challenge shall specify the reasons why the ballot  
41 does not comply with the provisions of this ~~Article~~ Chapter or why the absentee voter is  
42 not legally entitled to vote in the particular primary or election. The challenge shall be  
43 signed by the challenger.

1 (d) To Whom Challenge Addressed; to Whom Challenge Delivered. – Each  
2 challenge shall be addressed to the county board of elections. It may be filed with the  
3 board at its offices or with the chief judge of the precinct in which the challenger and  
4 absentee voter are registered. If it is delivered to the chief judge, the chief judge shall  
5 personally deliver the challenge to the ~~chairman of the~~ county board of elections on the  
6 day of the county canvass.

7 (e) Hearing Procedure. – All challenges filed under this section shall be heard by  
8 the county board of elections on the day set for the canvass of the returns. All members  
9 of the board shall attend the canvass and all members shall be present for the hearing of  
10 challenges to absentee ballots.

11 Before the board hears a challenge to an absentee ballot, the chairman shall mark the  
12 word "challenged" after the voter's name in the register of absentee ballot applications  
13 and ballots issued and in the pollbook of absentee voters.

14 The board then shall hear the challenger's reasons for the challenge, and it shall  
15 make its decision without opening the container-return envelope or removing the ballots  
16 from it.

17 The board shall have authority to administer the necessary oaths or affirmations to  
18 all witnesses brought before it to testify to the qualifications of the voter challenged or  
19 to the validity or invalidity of the ballot.

20 If the challenge is sustained, the chairman shall mark the word "sustained" after the  
21 word "challenged" following the voter's name in the register of absentee ballot  
22 applications and ballots issued and in the pollbook of absentee voters; the voter's ballots  
23 shall not be counted; and the container-return envelope shall not be opened but shall be  
24 marked "Challenge Sustained." All envelopes so marked shall be preserved intact by the  
25 chairman for a period of six months from canvass day or longer if any contest then is  
26 pending concerning the validity of any absentee ballot.

27 If the challenge is overruled, the absentee ballots shall be removed from the  
28 container-return envelopes and counted by the board of elections, and the board shall  
29 adjust the appropriate abstracts of returns to show that the ballots have been counted and  
30 tallied in the manner provided for unchallenged absentee ballots.

31 If the challenge was delivered to the board by the chief judge of the precinct and was  
32 sustained, the board shall reopen the appropriate ballot boxes, remove such ballots,  
33 determine how those ballots were voted, deduct such ballots from the returns, and adjust  
34 the appropriate abstracts of returns.

35 If the board determines that the challenged voter was eligible to vote part of the  
36 challenged ballot but not all of it, the board shall count the part that the voter was  
37 eligible to vote and not count the part that the voter was not eligible to vote.

38 Any voter whose ballots have been challenged may, either personally or through an  
39 authorized representative, appear before the board at the hearing on the challenge and  
40 present evidence as to the validity of the ballot.

41 **"§ 163-90. Challenge as felon; answer not to be used on prosecution.**

42 If any registered voter is challenged as having been convicted of any crime which  
43 excludes him from the right of suffrage, he shall be required to answer any question in

1 relation to the alleged conviction, but his answers to such questions shall not be used  
2 against him in any criminal prosecution.

3 **"§ 163-90.1. Burden of proof.**

4 (a) Challenges shall not be made indiscriminately and may only be made if the  
5 challenger knows, suspects or reasonably believes such a person not to be qualified and  
6 entitled to vote.

7 (b) No challenge shall be sustained unless the challenge is substantiated by  
8 affirmative proof. In the absence of such proof, the presumption shall be that the voter is  
9 properly registered or affiliated.

10 **"§ 163-90.2. Action when challenge sustained, overruled, or dismissed.**

11 (a) When any challenge is sustained for any cause listed under G.S. 163-85(c),  
12 the board shall cancel the voter registration of the voter and shall remove his card from  
13 the book, but shall maintain such record for at least six months and during the pendency  
14 of any appeal.

15 ~~(b) When any challenge heard under G.S. 163-88 or 163-89 is sustained on the~~  
16 ~~ground that the voter is not affiliated with the political party shown on his registration~~  
17 ~~record, the board shall change the voter's party affiliation to "unaffiliated".~~

18 ~~(c) When any challenge made under G.S. 163-85 is overruled or dismissed, the~~  
19 ~~board shall erase the word "challenged" which appears on the person's registration~~  
20 ~~records.~~

21 (d) A decision by a county board of elections on any challenge made under the  
22 provisions of this Article shall be appealable to the Superior Court of the county in  
23 which the offices of that board are located within 10 days. Only those persons against  
24 whom a challenge is sustained or persons who have made a challenge which is  
25 overruled shall have standing to file such appeal.

26 **"§ 163-90.3. Making false affidavit perjury.**

27 Any person who shall knowingly make any false affidavit or shall knowingly swear  
28 or affirm falsely to any matter or thing required by the terms of this Article to be sworn  
29 or affirmed shall be guilty of a Class I felony."

30 **SECTION 76.5.(e)** G.S. 163-165(6) reads as rewritten:

31 "(6) "Provisional official ballot" means an official ballot that is voted and  
32 then placed in an envelope that contains an affidavit signed by the  
33 voter certifying identity and eligibility to vote. Except for its envelope,  
34 a provisional official ballot shall not be marked to make it identifiable  
35 to the voter."

36 **SECTION 76.5.(f)** G.S. 163-278.19(a) reads as rewritten:

37 "(a) Except as provided in subsections (a2), (b), (d), (e), (f), and (g) of this section  
38 it shall be unlawful for any corporation, business entity, labor union, professional  
39 association or insurance company directly or indirectly:

40 (1) To make any contribution to a candidate or political committee ~~(except~~  
41 ~~a loan of money by a national or State bank or federal or State savings~~  
42 ~~and loan association made in accordance with the applicable banking~~  
43 ~~or savings and loan association laws and regulations and in the~~

- 1           ~~ordinary course of business~~) or to make any expenditure to support or  
 2           oppose the nomination or election of a clearly identified candidate;  
 3           (2) To pay or use or offer, consent or agree to pay or use any of its money  
 4           or property for any contribution to a candidate or political committee  
 5           or for any expenditure to support or oppose the nomination or election  
 6           of a clearly identified candidate; or  
 7           (3) To compensate, reimburse, or indemnify any person or individual for  
 8           money or property so used or for any contribution or expenditure so  
 9           made;

10   and it shall be unlawful for any officer, director, stockholder, attorney, agent or member  
 11   of any corporation, business entity, labor union, professional association or insurance  
 12   company to aid, abet, advise or consent to any such contribution or expenditure, or for  
 13   any person or individual to solicit or knowingly receive any such contribution or  
 14   expenditure. Supporting or opposing the election of clearly identified candidates  
 15   includes supporting or opposing the candidates of a clearly identified political party.  
 16   Any officer, director, stockholder, attorney, agent or member of any corporation,  
 17   business entity, labor union, professional association or insurance company aiding or  
 18   abetting in any contribution or expenditure made in violation of this section shall be  
 19   guilty of a Class 2 misdemeanor, and shall in addition be liable to such corporation,  
 20   business entity, labor union, professional association or insurance company for the  
 21   amount of such contribution or expenditure, and the same may be recovered of him  
 22   upon suit by any stockholder or member thereof."

23           **SECTION 76.5.(g)** G.S. 163-278.19 is amended by adding a new subsection  
 24   to read:

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

- 27           (1) The loan is made in accordance with applicable laws governing  
 28           financial institutions.  
 29           (2) The loan is made in the ordinary course of business.  
 30           (3) If the loan is secured, the loan is secured in the full amount by  
 31           collateral placed, or guaranties given, by one or more individuals or  
 32           entities who are not prohibited by this Article from making  
 33           contributions to the candidate or political committee (subsequently  
 34           referred to in this subsection as "guarantor").  
 35           (4) If the loan is guaranteed, the amount of each guaranty or the value of  
 36           the collateral posted by each guarantor does not exceed the  
 37           contribution limitations applicable under this Article to that guarantor,  
 38           except that the value of collateral posted by a guarantor may exceed  
 39           the contribution limitations applicable under this Article in cases  
 40           where the amount of the loan secured by that collateral does not itself  
 41           exceed the contribution limitations applicable to the guarantor.  
 42           (5) If the loan is unsecured, only the candidate and the candidate's spouse  
 43           may be liable for the loan.



1        During the time that any loan made under this subsection remains outstanding and  
2 unpaid, then the amount of any guaranty or the value of any collateral posted for that  
3 loan shall be considered to be a contribution by the guarantor for purposes of  
4 determining the eligibility of any additional contributions made by that guarantor. If the  
5 loan, or any portion of the loan, is repaid by the candidate or political committee to  
6 whom the loan was made during the contribution limitation period for the same  
7 "election" as defined in G.S. 163-278.13(d), in which the loan was made, the guarantor  
8 shall be eligible to further contribute to that candidate or political committee up to the  
9 amount of the repayment, as prorated to the amount of the guarantee or collateral repaid.  
10 That amount of the collateral or loan guarantee shall be treated as a refunded  
11 contribution and shall no longer count against the contribution limits under  
12 G.S. 163-278.13 for that election for that guarantor.

13        Only the candidate, the candidate's spouse, or the political committee to whom the  
14 loan was made may repay the loan.

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

21        **SECTION 76.5.(h)** Article 22D of Chapter 163 of the General Statutes is  
22 amended by adding a new section to read:

23        **"§ 163-278.64A. Special participation provisions for candidates in plurality**  
24 **elections.**

25        (a) Participation Provisions Modified. – Candidates in plurality elections as  
26 provided in G.S. 163-329 may participate in the Fund subject to the provisions of  
27 G.S. 163-278.64 as modified by this section.

28        (b) Qualifying. – The State Board of Elections shall designate a special  
29 qualifying period for a plurality election of no less than four weeks. That qualifying  
30 period shall begin at the close of the notice-of-candidacy filing period for the plurality  
31 election. To receive certification, a participating candidate shall raise at least 225  
32 qualifying contributions, totaling at least 20 times the amount of the filing fee for the  
33 office, for a four-week qualifying period. If the State Board of Elections sets a longer  
34 qualifying period, then for each additional week that the qualifying period extends  
35 beyond four weeks, the minimum number of qualifying contributions required for  
36 certification shall increase by 25, and the minimum amount of the qualifying  
37 contributions shall increase by two times the filing fee. The minimum qualifying  
38 contributions shall not exceed the limit set by G.S. 163-278.64(b).

39        (c) Allocations. – Certified candidates in plurality elections shall receive one  
40 percent (1%) of the funding to which they would be eligible under G.S. 163-278.65  
41 times the number of calendar days between the end of the special qualifying period and  
42 the day of the general elections. That amount shall not exceed one hundred percent  
43 (100%) of the funding to which they would be eligible under G.S. 163-278.65."

44        **SECTION 76.5.(i)** G.S. 163-278.65(c) reads as rewritten:

1       "(c) Method of Fund Distribution. – The Board, in consultation with the State  
2 Treasurer and the State Controller, shall develop a rapid, reliable method of conveying  
3 funds to certified candidates. In all cases, the Board shall distribute funds to certified  
4 candidates in a manner that is expeditious, ensures accountability, and safeguards the  
5 integrity of the Fund. If the money in the Fund is insufficient to fully fund all certified  
6 candidates, then the available money shall be distributed proportionally, according to  
7 each candidate's eligible ~~funding~~ funding, and the candidate may raise additional  
8 money in the same manner as a noncertified candidate for the same office up to the  
9 unfunded amount of the candidate's eligible funding."

10       **SECTION 76.5.(j)** G.S. 163-278.66(a) reads as rewritten:

11       "(a) Reporting by Noncertified Candidates and Independent Expenditure Entities.  
12 – Any noncertified candidate with a certified opponent shall report total income,  
13 expenses, and obligations to the Board by facsimile machine or electronically within 24  
14 hours after the total amount of campaign expenditures or obligations made, or funds  
15 raised or borrowed, exceeds eighty percent (80%) of the trigger for rescue funds as  
16 defined in G.S. 163-278.62(18). Any entity making independent expenditures ~~in excess~~  
17 ~~of three thousand dollars (\$3,000)~~ in support of or opposition to a certified candidate or  
18 in support of a candidate opposing a certified candidate shall report the total funds  
19 received, spent, or obligated for those expenditures to the Board by facsimile machine  
20 or electronically within 24 hours after the total amount of expenditures or obligations  
21 made, or funds raised or borrowed, for the purpose of making the independent  
22 expenditures, exceeds ~~fifty percent (50%) of the trigger for rescue funds~~ five thousand  
23 dollars (\$5,000). After this 24-hour filing, the noncertified candidate or independent  
24 expenditure entity shall comply with an expedited reporting schedule by filing  
25 additional reports after receiving each additional amount in excess of one thousand  
26 dollars (\$1,000) or after making or obligating to make each additional expenditure(s) in  
27 excess of one thousand dollars (\$1,000). The schedule and forms for reports required by  
28 this subsection shall be made according to procedures developed by the Board."

29       **SECTION 76.5.(k)** G.S. 163-278.68(b) reads as rewritten:

30       "(b) Advisory Council for the Public Campaign ~~Financing~~ Fund. – There is  
31 established under the Board the Advisory Council for the Public Campaign ~~Financing~~  
32 Fund to advise the Board on the rules, procedures, and opinions it adopts for the  
33 enforcement and administration of this Article and on the funding needs and operation  
34 of the Public Campaign ~~Financing~~ Fund. The Advisory Council shall consist of five  
35 members to be appointed as follows:

- 36       (1) The Governor shall name two members from a list of individuals  
37 nominated by the State Chair of the political party with which the  
38 greatest number of registered voters is affiliated. The State Chair of  
39 that party shall submit to the Governor the names of five nominees.
- 40       (2) The Governor shall name two members from a list of individuals  
41 nominated by the State Chair of the political party with which the  
42 second greatest number of registered voters is affiliated. The State  
43 Chair of that party shall submit to the Governor the names of five  
44 nominees.

- 1           (3) The Board shall name one member by unanimous vote of all members  
2           of the Board. If the Board cannot reach unanimity on the appointment  
3           of that member, the Advisory Council shall consist of the remaining  
4           members.

5           No individual shall be eligible to be a member of the Advisory Council who would  
6           be ineligible to serve on a county board of elections in accordance with G.S. 163-30.  
7           The initial members shall be appointed by December 1, 2002. Of the initial appointees,  
8           two are appointed for one-year terms, two are appointed for two-year terms, and one is  
9           appointed for a three-year term according to random lot. Thereafter, appointees are  
10          appointed to serve four-year terms. An individual may not serve more than two full  
11          ~~terms.~~ terms, except that regardless of the time of appointment each term shall end on  
12          December 31. A member shall continue on the Advisory Council beyond the expired  
13          term until a successor is appointed. The appointed members receive the legislative per  
14          diem pursuant to G.S. 120-3.1. One of the Advisory Council members shall be elected  
15          by the members as Chair. A vacancy during an unexpired term shall be filled in the  
16          same manner as the regular appointment for that term, but a vacancy appointment is  
17          only for the unexpired portion of the term."

18           **SECTION 76.5.(l)** G.S. 163-278.69(c) reads as rewritten:

19           "(c) Disclaimer. – The Judicial Voter Guide shall contain the following statement:  
20           ~~'The above statements~~ Statements by candidates do not express or reflect the opinions of  
21           the State Board of Elections.' "

22           **SECTION 76.5.(m)** G.S. 163-278.13(e) reads as rewritten:

23           "(e) ~~This~~ Except as provided in subsections (e2) and (e3) of this section, this  
24           section shall not apply to any national, State, district or county executive committee of  
25           any political party. For the purposes of this section only, the term "political party"  
26           means only those political parties officially recognized under G.S. 163-96."

27           **SECTION 76.5.(n)** G.S. 163-278.13(e2) reads as rewritten:

28           "(e2) In order to make meaningful the provisions of Article 22D of this Chapter,  
29           the following provisions shall apply with respect to candidates for justice of the  
30           Supreme Court and judge of the Court of Appeals:

- 31           (1) No candidate shall accept, and no contributor shall make to that  
32           candidate, a contribution in any election exceeding one thousand  
33           dollars (\$1,000) except as provided for elsewhere in this subsection.
- 34           (2) A candidate may accept, and a family contributor may make to that  
35           candidate, a contribution not exceeding two thousand dollars (\$2,000)  
36           in an election if the contributor is that candidate's parent, child,  
37           brother, or sister.
- 38           (3) No candidate shall accept, and no contributor shall make to that  
39           candidate, a contribution during the period beginning 21 days before  
40           the day of the general election and ending the day after the general  
41           ~~election.~~ election if that contribution causes the candidate to exceed the  
42           "trigger for rescue funds" defined in G.S. 163-278.62(18). This  
43           subdivision applies with respect to a candidate opposed in the general  
44           election by a certified candidate as defined in Article 22D of this

1 Chapter who has not received the maximum rescue funds available  
2 under G.S. 163-278.67. The recipient of a contribution that apparently  
3 violates this subdivision has three days to return the contribution or file  
4 a detailed statement with the State Board of Elections explaining why  
5 the contribution does not violate this subdivision.

6 As used in this subsection, "candidate" is also a political committee authorized by  
7 the candidate for that candidate's election. Nothing in this subsection shall prohibit a  
8 candidate or the spouse of that candidate from making a contribution or loan secured  
9 entirely by that individual's assets to that candidate's own campaign."

10 **SECTION 76.5.(o)** G.S. 163-278.13 is amended by adding a new subsection  
11 to read:

12 "(e3) Notwithstanding the provisions of subsections (a) and (b) of this section, no  
13 candidate for superior court judge or district court judge shall accept, and no contributor  
14 shall make to that candidate, a contribution in any election exceeding one thousand  
15 dollars (\$1,000), except as provided in subsection (c) of this section. As used in this  
16 subsection, "candidate" is also a political committee authorized by the candidate for that  
17 candidate's election. Nothing in this subsection shall prohibit a candidate or the spouse  
18 of that candidate from making a contribution or loan secured entirely by that  
19 individual's assets to that candidate's own campaign."

20 **SECTION 76.5.(p)** G.S. 105-159.2 reads as rewritten:

21 **"§ 105-159.2. Designation of tax to North Carolina Public Campaign Financing**  
22 **Fund.**

23 (a) Allocation to the North Carolina Public Campaign ~~Financing~~ Fund. – To  
24 ensure the financial viability of the North Carolina Public Campaign ~~Financing~~ Fund  
25 established in Article 22D of Chapter 163 of the General Statutes, the Department must  
26 allocate to that Fund three dollars (\$3.00) from the income taxes paid each year by each  
27 individual with an income tax liability of at least that amount, if the individual agrees. A  
28 taxpayer must be given the opportunity to indicate an agreement or objection to that  
29 allocation in the manner described in subsection (b) of this section. In the case of a  
30 married couple filing a joint return, each individual must have the option of agreeing or  
31 objecting to the allocation. The amounts allocated under this subsection to the Fund  
32 must be credited to it on a ~~quarterly~~ monthly basis.

33 (b) Returns. – Individual income tax returns must give an individual an  
34 opportunity to agree to the allocation of three dollars (\$3.00) of the individual's tax  
35 liability to the North Carolina Public Campaign ~~Financing~~ Fund. The Department must  
36 make it clear to the taxpayer that the dollars will support a nonpartisan court system,  
37 that the dollars will go to the Fund if the taxpayer marks an agreement, and that  
38 allocation of the dollars neither increases nor decreases the individual's tax liability. The  
39 following statement ~~satisfies the intent of~~ must be used to meet this requirement: "~~Three~~  
40 ~~dollars (\$3.00) will go to the North Carolina Public Campaign Financing Fund to~~  
41 ~~support a nonpartisan court system, if you agree. Your tax remains the same whether or~~  
42 ~~not you agree.~~" "This Fund pays for a nonpartisan voter guide and helps judicial  
43 candidates who accept strict fund-raising limits. Do you agree to direct \$3.00 to this  
44 Fund from the taxes you pay anyway? Marking Yes will not increase your tax or reduce

1 your refund." The Department must consult with the State Board of Elections to ensure  
2 that the information given to taxpayers complies with the intent of this section.

3 The Department must inform the entities it approves to reproduce the return ~~of that~~  
4 they must comply with the requirements of this section and that a return may not reflect  
5 an agreement or objection unless the individual completing the return decided to agree  
6 or object after being presented with the statement required by subsection (b) of this  
7 section and, as available background information or instructions, the information  
8 required by subsection (c) of this section. No software package used in preparing North  
9 Carolina income tax returns may default to an agreement or objection. A paid preparer  
10 of tax returns may not mark an agreement or objection for a taxpayer without the  
11 taxpayer's consent.

12 (c) Instructions. – The instruction for individual income tax returns must include  
13 the following explanatory statement: "The North Carolina Public Campaign ~~Financing~~  
14 Fund provides campaign money to nonpartisan candidates for the ~~North Carolina N.C.~~  
15 Supreme Court and Court of Appeals who voluntarily accept strict campaign spending  
16 and fund-raising limits. The Fund also helps finance a Voter Guide with educational  
17 materials about voter registration, the role of the appellate courts, and the candidates  
18 seeking election as appellate judges in North Carolina. Three dollars (~~\$3.00~~) from the  
19 taxes you pay will go to the Fund if you mark an agreement. Regardless of what choice  
20 you make, your tax will not increase, nor will any refund you are entitled to be  
21 reduced."

22 **SECTION 76.5(q)** Sections 76.5(d) and 76.5(e) of this act become effective  
23 January 1, 2006. Sections 76.5(f) and 76.5(o) of this act become effective January 1,  
24 2006, and apply to contributions and loans made or accepted on or after that date.  
25 Contributions and loans made or accepted prior to that date shall count toward the  
26 cumulative limit after that date. The remainder of this act is effective when it becomes  
27 law.

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

32 "Sec. 1. The term of the School Board shall be for four years and the governing body  
33 of the City of Asheville shall, during the month of March 2007 and quadrennially  
34 thereafter, appoint or elect two persons to the Board for four-year terms or until their  
35 successors are elected and qualified, and, during the month March 2009 and  
36 quadrennially thereafter, appoint or elect three persons to the Board for four-year terms  
37 or until their successors are elected and qualified. All Board members shall be residents  
38 of the Asheville City School District and shall be persons known to be in favor of public  
39 education and interested in the welfare of the schools and shall be appointed or elected  
40 with the sole object in view of maintaining the efficiency of the schools of said district  
41 and without any partisan prejudice or bias. If any vacancy in the membership of said  
42 board occurs by reasons of death or resignation or otherwise the governing body of the  
43 City of Asheville shall fill the same appointment or election. Terms shall begin on April  
44 1 and in April 2007, and each biennial year thereafter, the Board shall meet and elect a

1 chairman, who will preside over the meetings of the Board. A majority of the members  
2 of the Board shall constitute a quorum and the chairman or two members may call a  
3 meeting.

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

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

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

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

15 Section 1.3. In the alternative to Section 1.2 above, during any fiscal year in which  
16 the anticipated revenues by the Burke County Board of Commissioners for  
17 appropriation under Section 1(2) of the Act exceed the amount of seven million dollars  
18 (\$7,000,000.00), the Burke County Board of Commissioners may appropriate an  
19 amount equal to fifty percent (50%) of the revenues designated for school capital  
20 expenditures and debt under Article 42 of Chapter 105 of the North Carolina General  
21 Statutes from the anticipated revenues appropriated under Section 1(2) of the Act to (1)  
22 the Burke County Board of Commissioners' general fund, (2) the local current expense  
23 fund of the Burke County Board of Education as part of its appropriation to that fund, or  
24 (3) both funds.

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

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

36 **SECTION 80.** Section 11.69(b2)(3) of S.L. 1997-443, as enacted by Section  
37 3 of S.L. 2001-234, reads as rewritten:

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

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

3 ...

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

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

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

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

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

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

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

23 **SECTION 85.** S.L. 2005-276 is amended by adding the following new  
24 section to read:

25 "**BIENNIAL REPORT THAT HIGHLIGHTS THE IMPACT OF EDUCATION**  
26 **PREPARATION ON ECONOMIC GROWTH**

27 **SECTION 6.32.** G.S. 143B-472.80 is amended by adding a new subdivision  
28 to read:

29 "(5) To prepare a biennial report by county on the status of trends that  
30 reflect the impact of education on economic growth for the twenty-first  
31 century. This report shall contain information about the status of each  
32 county with regard to education and economic growth. The Board shall  
33 provide the report to the General Assembly prior to February 1, 2007,  
34 and biennially thereafter."

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

37 "**SECTION 10.40D.(e)** The Department of Health and Human Services, the  
38 Department of Public Instruction, and representatives of local school administrative  
39 units shall examine the policies regarding the administration of medications in school  
40 and make recommendations regarding the use of medication aides in the public schools.  
41 The Secretary of Health and Human Services and the Chair of the Board of Education  
42 shall convene a task force consisting of representatives of the agencies listed above and  
43 other interested parties. The Task Force shall develop recommendations for the  
44 Secretary and the Chair by April 1, 2006."

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

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

3           **"SECTION 10.11.(t)** For the purposes of determining eligibility for Medical  
4 Assistance, the Department of Health and Human Services may apply federal transfer of  
5 assets policies, as described in Title XIX, section 1917(c) of the Social Security Act,  
6 including the attachment of liens, to (i) life estates purchased by or on behalf of the  
7 recipient, ~~other than life estates excluded from countable resources under this section,~~  
8 and (ii) to real property excluded as "income producing", tenancy-in-common, or as  
9 nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of  
10 the Social Security Act. The transfer of assets policy shall apply only to an  
11 institutionalized individual or the individual's spouse as defined in Title XIX, section  
12 1917(c) of the Social Security Act. The Department shall exclude from countable  
13 resources ~~any only a~~ life estate in real property that ~~is in the recipient's home, meets the~~  
14 definition of homesite and is measured by the recipient's life, ~~and is the result of the~~  
15 transfer of a remainder interest.

16           Federal transfer of assets policies applied to "income producing" real property under  
17 Title XIX, section 1902(r)(2) of the Social Security Act shall become effective not  
18 earlier than October 1, 2001. Federal transfer of assets policies and attachment of liens  
19 applied to real property excluded as tenancy-in-common, or as nonhomesite property  
20 made "income producing" in accordance with this subsection shall become effective not  
21 earlier than November 1, 2002. Federal transfer of assets policies applied to life estates  
22 in accordance with this subsection shall become effective not earlier than October 1,  
23 2005."

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

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

32           **SECTION 89.(a)** G.S. 143B-267, as amended by Section 17.25(a) of S.L.  
33 2005-276, reads as rewritten:

34           "**§ 143B-267. Post-Release Supervision and Parole Commission – members;**  
35 **selection; removal; chairman; compensation; quorum; services.**

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



1 the Commission created by the resignation, removal, death or disability of a member  
2 shall be for the balance of the unexpired term only.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7       **"§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

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

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

18       **"§ 114-19.16. Criminal record checks for the North Carolina State Lottery**  
19 **Commission and its Director.**

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

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

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

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

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

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

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

9       **"§ 97-18. Prompt payment of compensation required; installments; payment**  
10 **without prejudice; notice to Commission; penalties.**

11       ...

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

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

1 contest the compensability of and its liability for the claim under this Article. However,  
2 the employer or insurer may contest the compensability of or its liability for the claim  
3 after the 90-day period or extension thereof when it can show that material evidence  
4 was discovered after that period that could not have been reasonably discovered earlier,  
5 in which event the employer or insurer may terminate or suspend compensation subject  
6 to the provisions of G.S. 97-18.1.

7 ...."

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

10 **"§ 97-25.6. Reasonable access to medical information.**

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

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

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

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

43 Upon motion by an employee or provider from whom medical records or reports are  
44 sought or upon its own motion, for good cause shown, the Commission may make any

1 order which justice requires to protect an employee or other person from unreasonable  
2 annoyance, embarrassment, oppression, or undue burden or expense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5           **SECTION 98.** If both House Bill 1389, 2005 Regular Session, and House  
6 Bill 1500, 2005 Regular Session, become law, then Section 4 of House Bill 1500, 2005  
7 Regular Session, is repealed.

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

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

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

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

28          "**§ 105-113.81A. Distribution of part of wine taxes attributable to North Carolina**  
29           **wine.**

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

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

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

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

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

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

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

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

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

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

29           **"§ 160A-373. Ordinance to contain procedure for plat approval; approval**  
30 **prerequisite to plat recordation; statement by owner.**

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

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

- 36           (1) The city council,
- 37           (2) The city council on recommendation of a ~~planning agency,~~ designated  
38 body, or
- 39           (3) A designated ~~planning agency board,~~ technical review committee, or  
40 other designated body or staff person.

41           From and after the effective date of a subdivision ordinance that is adopted by the  
42 city, no subdivision plat of land within the city's jurisdiction shall be filed or recorded  
43 until it shall have been submitted to and approved by the council or appropriate agency,  
44 as specified in the subdivision ordinance, and until this approval shall have been entered

1 on the face of the plat in writing by an authorized representative of the city. The Review  
2 Officer, pursuant to G.S. 47-30.2, shall not certify a plat of a subdivision of land located  
3 within the territorial jurisdiction of a city that has not been approved in accordance with  
4 these provisions, nor shall the clerk of superior court order or direct the recording of a  
5 plat if the recording would be in conflict with this section."

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

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

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

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

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

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



1 rules. The Department of Environment and Natural Resources shall: (i)  
2 review the financial assurance contemplated by this act in light of  
3 reasonably available financial assurance and guaranteed remediation  
4 products and in light of known and reasonably anticipated unknown  
5 environmental conditions at the manufacturing redevelopment district,  
6 and (ii) approve or disapprove the financial assurance within 45 days  
7 after the new operator submits a complete financial assurance  
8 proposal, including copies of the proposed financial assurance  
9 instrument or mechanism, to the Department of Environment and  
10 Natural Resources. The requirement that the financial assurance is  
11 acceptable to the Department of Environment and Natural Resources  
12 shall be waived if the Department of Environment and Natural  
13 Resources does not complete its review within the 45-day period. The  
14 45-day review period may be extended if the new operator and the  
15 Department of Environment and Natural Resources mutually agree to  
16 the extension."

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

19 "(a) No person who owned or had an interest in any real property within a  
20 manufacturing redevelopment district at any time prior to the establishment of the  
21 district shall be liable to any private or third party for civil claims arising out of the  
22 presence of oil, a hazardous substance, or a hazardous waste on the real property if the  
23 cause of action arose after transfer of the property to the new operator under this act,  
24 regardless of when the oil, hazardous substance, or hazardous waste was brought to or  
25 discovered at the site. The qualified immunity provided by this section shall attach at  
26 the time that the Secretary of State approves certification of the manufacturing  
27 redevelopment district or at the time that the real property comprising the manufacturing  
28 redevelopment district is transferred to the new operator, whichever occurs later. The  
29 qualified immunity provided by this section is with respect to any theory of legal  
30 liability, including, but not limited to, any claim of negligence, nuisance, or trespass, or  
31 arising under other common law principles, or arising under any State statute or rule,  
32 including, but not limited to, Article 9 of Chapter 130A of the General Statutes, Articles  
33 21 and 21A of Chapter 143 of the General Statutes, and rules adopted pursuant to those  
34 Articles. The qualified immunity provided by this section shall continue in effect after  
35 the termination of the manufacturing redevelopment district."

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

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

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

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

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

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

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

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

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

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

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

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

33           "**SECTION 4.** The Commission shall issue a special occasion permit under  
34 G.S. 18B-1001(8) to a mixed beverage permittee in a sports facility occupied by a major  
35 league professional sports team with suites available for sale or lease to patrons of the  
36 facility to authorize patrons to make available alcoholic beverages in those suites as if  
37 the patron were a host of a reception, party or other special occasion. If the patron  
38 occupying the suite so desires, alcoholic beverages by self-service may be made  
39 available to any person at least 21 years of age possessing a valid ticket to the event  
40 authorizing that person to occupy the suite. At no event may the patron make available a  
41 quantity of alcoholic beverages in excess of the amount a person is allowed to buy  
42 under G.S. 18B-303(a). A mixed beverage permittee who holds a permit shall provide  
43 mixed beverage tax paid spirituous liquor for resale by the container in approved sizes  
44 of no larger than 750 milliliters to the host or patron of the suite. This section does not

1 authorize any person possessing a valid ticket to an event at the facility to bring  
 2 alcoholic beverages onto the premises and consume those alcoholic beverages on the  
 3 premises, or to remove those beverages from the suite.

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

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

21 **SECTION 10.40B.(b)** This section expires 30 days from the date of the  
 22 Department's decision on the new certificate of need or adjournment sine die of the  
 23 2005 General Assembly, whichever occurs later."

24 **SECTION 101.5.** Section 30.3A of S.L. 2005-276 reads as rewritten:

25 **"SECTION 30.3A.** Section 1.1 of S.L. 2004-179 reads as rewritten:

26 **"SECTION 1.1.** In accordance with G.S. 142-83, this section authorizes the  
 27 issuance or incurrence of special indebtedness in the following maximum aggregate  
 28 principal amounts to finance the costs of the following projects. The table below  
 29 provides the maximum principal amounts. The first column is the aggregate maximum  
 30 principal amount. The second column is the maximum portion of this amount that can  
 31 be issued or incurred before July 1, 2005. The State, with the prior approval of the State  
 32 Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the  
 33 General Statutes, is authorized to issue or incur special indebtedness in order to provide  
 34 funds to the State to be used, together with other available funds, to pay the cost of these  
 35 projects.

Aggregate Maximum	Maximum before 7/1/05	Project
...	10,000,000	To Western Carolina University for land acquisition, site preparation, <del>and</del> engineering, architectural, and other consulting <del>services for Western Carolina University and</del> <u>services, and construction of the Mountain Area Health Education Consortium for the North Carolina</u>

Center for Health and Aging to be operated as a consortium among Western Carolina University, the University of North Carolina at Asheville, and the Mountain Area Health Education Consortium.

..."

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

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

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

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

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

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

SECTION 102.5.(a) The Clayton Town Council may, by resolution, direct the Johnston County Board of Elections to conduct an advisory referendum on whether the Town should consider amending the manner by which voters elect Council members. The referendum shall be conducted in accordance with Chapter 163 of the General Statutes. The form of the question to be presented on a ballot for such a referendum shall be:

"Should the Clayton Town council consider amending the manner by which voters elect Council members by designating that some members are elected from

1 voting districts to be drawn by the Town Council and other members are elected at  
2 large?

3 [ ] YES [ ] NO"

4 **SECTION 102.5.(b).** This section expires January 1, 2006.

5 **SECTION 102.5.** It is the public policy of the State of North Carolina to  
6 leverage public funding to obtain private contributions for the cultural institutions of the  
7 State. With respect to this policy, the General Assembly recognizes the importance of  
8 certain private contributions to the North Carolina Museum of Art, which are contingent  
9 upon the General Assembly funding the construction of new buildings and pavilions at  
10 the North Carolina Museum of Art. It is the intent of the General Assembly to provide  
11 sufficient funding for the new North Carolina Museum of Art complex before the end of  
12 the 2006 session of the General Assembly.

13

14 **PART III. EFFECTIVE DATE**

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