

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SENATE BILL 1523  
RATIFIED BILL**

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

The General Assembly of North Carolina enacts:

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

**SECTION 1.** G.S. 10B-106(d) reads as rewritten:

"(d) An electronic form shall be used by an electronic notary in registering with the Secretary and it shall include, at least all of the following:

- (1) The applicant's full legal name and the name to be used for commissioning, excluding nicknames.
- (2) The state and county of commissioning of the registrant.
- (3) The expiration date of the registrant's notary commission.
- (4) Proof of successful completion of the course of instruction on electronic notarization as required by this Article.
- (5) A description of the technology the registrant will use to create an electronic signature in performing official acts.
- (6) If the device used to create the registrant's electronic signature was issued or registered through a licensed certification authority, the name of that authority, the source of the license, the starting and expiration dates of the device's term of registration, and any revocations, annulments, or other premature terminations of any registered device of the registrant that was due to misuse or compromise of the device, with the date, cause, and nature of each termination explained in detail.
- (7) The e-mail address of the registrant.

The information contained in a registration under this section is a public record as defined in G.S. 132-1, except for information contained in ~~subsection (7)~~, subdivision (7) of this subsection, which shall be considered confidential information and shall not be subject to disclosure except as provided in Chapter 132 of the General Statutes or as provided by rule."

**SECTION 2.** G.S. 45-37(a) reads as rewritten:

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

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

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

....  
" **SECTION 3.** If House Bill 1432, 2005 Regular Session, becomes law, Section 1 of this act is repealed. If Senate Bill 1479, 2005 Regular Session, becomes law, Section 2 of this act is repealed.

**PART II. OTHER CHANGES**

**SECTION 4.(a)** G.S. 14-72(b) reads as rewritten:

"(b) The crime of larceny is a felony, without regard to the value of the property in question, if the larceny ~~is~~ is any of the following:

- (1) ~~From the person; or person.~~
- (2) Committed pursuant to a violation of G.S. 14-51, 14-53, ~~14-54~~ 14-54, 14-54.1, or 14-57; or 14-57.
- (3) Of any explosive or incendiary device or substance. As used in this section, the phrase "explosive or incendiary device or substance" shall include any explosive or incendiary grenade or bomb; any dynamite, blasting powder, nitroglycerin, TNT, or other high explosive; or any device, ingredient for such device, or type or quantity of substance primarily useful for large-scale destruction of property by explosive or incendiary action or lethal injury to persons by explosive or incendiary action. This definition shall not include fireworks; or any form, type, or quantity of gasoline, butane gas, natural gas, or any other substance having explosive or incendiary properties but serving a legitimate nondestructive or nonlethal use in the form, type, or quantity stolen.
- (4) Of any firearm. As used in this section, the term "firearm" shall include any instrument used in the propulsion of a shot, shell or bullet by the action of gunpowder or any other explosive substance within it. A "firearm," which at the time of theft is not capable of being fired, shall be included within this definition if it can be made to work. This definition shall not include air rifles or air pistols.
- (5) Of any record or paper in the custody of the North Carolina State Archives as defined by G.S. 121-2(7) and G.S. 121-2(8)."

**SECTION 4.(b)** This section becomes effective December 1, 2006, and applies to acts committed on or after that date.

**SECTION 5.(a)** G.S. 14-269(b) reads as rewritten:

"(b) This prohibition shall not apply to the following persons:

- (1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
- (2) Civil and law enforcement officers of the United States;
- (3) Officers and soldiers of the militia and the national guard when called into actual service;
- (4) Officers of the State, or of any ~~county, city, or town,~~ county, city, town, or company police agency charged with the execution of the laws of the State, when acting in the discharge of their official duties;
- (5) Sworn law-enforcement officers, when off-duty, provided that an officer does not carry a concealed weapon while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the officer's body."

**SECTION 5.(b)** G.S. 74E-6(c) reads as rewritten:

"(c) All Company Police. – Company police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers to make arrests for both felonies and misdemeanors and to charge for infractions on any of the following:

- (1) Real property owned by or in the possession and control of their employer.
- (2) Real property owned by or in the possession and control of a person who has contracted with the employer to provide on-site company police security personnel services for the property.
- (3) Any other real property while in continuous and immediate pursuit of a person for an offense committed upon property described in subdivisions (1) or (2) of this subsection.

Company police officers shall have, if duly authorized by the superior officer in charge, the authority to carry concealed weapons pursuant to and in conformity with ~~G.S. 14-269(b)(5)~~, G.S. 14-269(b)(4) and (5)."

**SECTION 5.(c)** This section becomes effective October 1, 2006.

**SECTION 6.** G.S. 14-306.1A, as enacted by Section 4 of S.L. 2006-6, is amended by adding a new subsection to read:

"(f) Machines described in G.S. 14-306(b)(1) are excluded from this section."

**SECTION 7.(a)** G.S. 14-409.11 reads as rewritten:

"§ 14-409.11. "Antique firearm" defined.

(a) The term "antique firearm" means any of the following:

- (1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured on or before 1898.
- (2) Any replica of any firearm described in subdivision (1) of this subsection if the replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition.
- (3) Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder substitute, and which cannot use fixed ammunition.

(b) For purposes of this section, the term "antique firearm" shall not include any weapon which:

- (1) Incorporates a firearm frame or receiver.
- (2) Is converted into a muzzle loading weapon.
- (3) Is a muzzle loading weapon that can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

~~The term "antique firearm" means any firearm manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1898; and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade."~~

**SECTION 7.(b)** G.S. 14-415.1(a) reads as rewritten:

"(a) It shall be unlawful for any person who has been convicted of a felony to purchase, own, possess, or have in his custody, care, or control any firearm or any weapon of mass death and destruction as defined in G.S. 14-288.8(c). For the purposes of this section, a firearm is (i) any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive, or its frame or receiver, or (ii) any firearm muffler or firearm silencer. This section does not apply to an antique firearm, as defined in G.S. 14-409.11.

Every person violating the provisions of this section shall be punished as a Class G felon."

**SECTION 8.(a)** G.S. 18C-130(a) reads as rewritten:

"(a) The Commission shall determine the ~~type~~ types of lottery games that may be used in the Lottery. Games may include instant lotteries, online games, games played on computer terminals or other devices, and other games traditional to a lottery or that have been conducted by any other state government-operated lottery."

**SECTION 8.(b)** G.S. 18C-131(e) reads as rewritten:

"(e) It shall be a defense for the person who sold a ticket or share in violation of subsection (d) of this section if the person does either of the following:

- (1) Shows that the purchaser produced a valid drivers license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing the purchaser to be at least 18 years old and bearing a physical description of the person named on the card that reasonably describes the purchaser.
- (2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least 18 years old."

**SECTION 8.(c)** G.S. 18C-111(a) reads as rewritten:

"(a) The Commission shall consist of nine members, five of whom shall be appointed by the Governor, two of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and two of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. Commissioners may be removed by the appointing authority for cause. The Governor shall select the chair of the Commission from among its membership, who shall serve at the pleasure of the Governor."

**SECTION 8.(d)** G.S. 18C-151(e) reads as rewritten:

"(e) After entering into a contract with a lottery contractor, the Commission shall require the lottery contractor to periodically update the information required to be disclosed under ~~G.S. 18C-149.~~ G.S. 18C-152(c). Any contract with a lottery contractor who does not periodically update the required disclosures may be terminated by the Commission."

**SECTION 8.(e)** G.S. 18C-164(a) reads as rewritten:

"(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses shall be considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred ~~periodically~~ four times a year to the Education Lottery Fund, which shall be created in the State treasury."

**SECTION 8.(f)** G.S. 105-163.2B reads as rewritten:

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

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

**SECTION 8.(g)** G.S. 114-19.16 reads as rewritten:

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

The Department of Justice may provide to the North Carolina State Lottery Commission and to its Director from the State and National Repositories of Criminal Histories the criminal history of any prospective employee of the Commission and any prospective lottery vendor. The North Carolina State Lottery Commission or its Director shall provide to the Department of Justice, along with the request, the fingerprints of the prospective employee of the Commission, or of the prospective lottery vendor, a form signed by the prospective employee of the Commission, or of the prospective vendor consenting to the criminal record check and use of fingerprints and other identifying information required by the State and National Repositories, and any additional information required by the Department of Justice. The fingerprints of the prospective employee of the Commission, or prospective lottery vendor, shall be forwarded to the

State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The North Carolina State Lottery Commission and its Director shall remit any fingerprint information retained by the Commission to alcohol law enforcement agents appointed under Article 5 of Chapter 18B of the General Statutes and shall keep all information obtained pursuant to this section confidential. The Department of Justice shall charge a reasonable fee only for conducting the checks of the ~~national~~ criminal history records authorized by this section."

**SECTION 8.(h)** G.S. 115C-499.1(3) reads as rewritten:

- "(3) Eligible postsecondary institution. – A school that is:
- a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4);
  - b. A community college as defined in G.S. 115D-2(2); or
  - c. A nonpublic postsecondary institution as defined in G.S. 116-22(1) or ~~116-43.5(a)(1)~~. G.S. 116-43.5(a)(1)."

**SECTION 8.(i)** G.S. 115C-546.2(d)(2) reads as rewritten:

- "(2) A sum equal to thirty-five percent (35%) of those monies transferred in accordance with G.S. 18C-164 shall be allocated to those local school administrative units located in whole or part in counties in which the effective county tax rate as a percentage of the ~~effective~~ State average effective tax rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:
- a. "Effective county tax rate" means the actual county tax rate for the previous fiscal year multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.
  - b. "State average effective tax rate" means the average effective county tax rates for all counties.
  - c. "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h)."

**SECTION 8.(j)** S.L. 2005-276 is amended by adding a new section to read:

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

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

**SECTION 8.(k)** S.L. 2005-344 is amended by adding a new section to read:

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

**SECTION 8.(l)** Section 12 of S.L. 2005-344 reads as rewritten:

"**SECTION 12.** The first security audit required under ~~G.S. 18C-123(a)~~G.S. 18C-122(a) shall be conducted at the beginning of the first calendar year after the effective date of this act. The first audit required under ~~G.S. 18C-123(d)~~G.S. 18C-122(d) shall be conducted at the end of the first fiscal year after the effective date of this act."

**SECTION 9.** G.S. 20-157(f) reads as rewritten:

"(f) When an authorized emergency vehicle as described in subsection (a) of this section or any public service vehicle is parked or standing within 12 feet of a roadway and is giving a warning signal by appropriate light, the driver of every other approaching vehicle shall, as soon as it is safe and when not otherwise directed by an individual lawfully directing traffic, do one of the following:

- (1) Move the vehicle into a lane that is not the lane nearest the parked or standing authorized emergency vehicle or public service vehicle and continue traveling in that lane until safely clear of the authorized

emergency vehicle. This paragraph applies only if the roadway has at least two lanes for traffic proceeding in the direction of the approaching vehicle and if the approaching vehicle may change lanes safely and without interfering with any vehicular traffic.

- (2) Slow the vehicle, maintaining a safe speed for traffic conditions, and operate the vehicle at a reduced speed and be prepared to stop until completely past the authorized emergency vehicle or public service vehicle. This paragraph applies only if the roadway has only one lane for traffic proceeding in the direction of the approaching vehicle or if the approaching vehicle may not change lanes safely and without interfering with any vehicular traffic.

For purposes of this section, "public service vehicle" means a vehicle that has been called to the scene by a motorist or a law enforcement officer, is being used to assist motorists or law enforcement officers with wrecked or disabled vehicles, and is operating an amber-colored flashing light authorized by G.S. 20-130.2. Violation of this subsection shall be negligence per se."

**SECTION 10.(a)** G.S. 20-171.19 is amended by adding a new subsection to read:

"(a1) Notwithstanding subsection (a) of this section, any person employed by a supplier of retail electric service, while engaged in power line inspection, may operate an all-terrain vehicle while wearing both of the following:

- (1) Head protection equipped with a chin strap that conforms to the standards applicable to suppliers of retail electric service adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor.
- (2) Eye protection that conforms to the standards applicable to suppliers of retail electric service adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor."

**SECTION 10.(b)** This section becomes effective December 1, 2006, and applies to acts committed on or after that date.

**SECTION 11.(a)** G.S. 20-217(g) reads as rewritten:

"(g) Any person who willfully violates subsection (a) of this section and ~~willfully~~ strikes any person causing serious bodily injury to that person shall be guilty of a Class I felony."

**SECTION 11.(b)** This section becomes effective December 1, 2006, and applies to acts committed on or after that date.

**SECTION 12.** G.S. 20-288(g), as enacted by Section 2.3 of S.L. 2006-105, reads as rewritten:

"(g) A corporate surety may refuse to renew a surety bond furnished pursuant to this section by giving or mailing written notice of nonrenewal to the license holder and to the Commissioner not less than 30 days prior to the premium anniversary date of the surety bond. The notice must be given or mailed by certified mail to the license holder at its last known address. ~~Cancellation-Nonrenewal~~ of the surety bond shall not affect any liability incurred or accrued prior to the premium anniversary date of the surety bond."

**SECTION 13.(a)** G.S. 36C-2-206 reads as rewritten:

**"§ 36C-2-206. Representation of parties.**

~~(a) In~~ Notwithstanding any other applicable rule of the Rules of Civil Procedure or provision of Chapter 1 of the General Statutes, in any trust proceeding or action, proceeding, whether brought before the clerk of superior court or in the superior court division of the General Court of Justice, the parties shall be represented as provided in Article 3 of this Chapter. the following rules apply notwithstanding any other applicable Rule of Civil Procedure or provision of Chapter 1 of the General Statutes:

- ~~(1) Parties shall be represented as provided in Article 3 of this Chapter.~~

(b) ~~(2)~~ In the case of any party represented by another as provided in subdivision (1) ~~subsection (a)~~ of this section, service of process shall be made by serving such representative."

**SECTION 13.(b)** G.S. 36C-4-408 reads as rewritten:

**"§ 36C-4-408. Trust for care of animal.**

(a) Subject to this section, a trust for the care of one or more designated domestic or pet animals alive at the time of creation of the trust is valid.

(b) Except as expressly provided otherwise in the trust instrument, no portion of the principal or income may be converted to the use of the trustee or to any use other than for the benefit of the designated animal or animals.

(c) The trust terminates at the death of the animal or last surviving animal. Upon termination, the trustee shall transfer the unexpended trust property in the following order:

- (1) As directed in the trust ~~instrument;~~instrument.
- (2) If the trust was created in a preresiduary clause in the ~~transferor's settlor's~~ will or in a codicil to the ~~transferor's settlor's~~ will, under the residuary clause in the ~~transferor's will;~~settlor's will.
- (3) If no taker is produced by the application of subdivision (1) or (2) of this subsection, to ~~the transferor or the transferor's heirs~~ the settlor, if then living, otherwise to the settlor's heirs determined as of the date of the ~~transferor's settlor's~~ death under Chapter 29 of the General Statutes.

(d) The intended use of the principal or income can be enforced by a person designated for that purpose in the trust instrument or, if none, by a person appointed by the clerk of superior court having jurisdiction over the ~~decedent's estate~~ trust upon application to the clerk of superior court by a person.

(e) Except as ordered by the clerk of superior court or required by the trust instrument, no filing, report, registration, periodic accounting, separate maintenance of funds, appointment, bond, or fee is required by reason of the existence of the fiduciary relationship of the trustee.

(f) A governing instrument shall be liberally construed to bring the transfer within this section, to presume against the merely precatory or honorary nature of the disposition, and to carry out the general intent of the ~~transferor.~~ settlor. Extrinsic evidence is admissible in determining the ~~transferor's~~ settlor's intent.

(g) The clerk of superior court may reduce the amount of the property transferred, if the clerk of superior court determines that the amount substantially exceeds the amount required for the intended use. The amount of the reduction, if any, passes as unexpended trust property under subsection (c) of this section.

(h) If no trustee is designated or if no designated trustee agrees to serve or is able to serve, the clerk of superior court must name a trustee. The clerk of superior court may order the transfer of the property to another trustee, if required to assure that the intended use is carried out and if no successor trustee is designated in the trust instrument or if no designated successor trustee agrees to serve or is able to serve. The clerk of superior court may also make other orders and determinations as are advisable to carry out the intent of the ~~transferor~~ settlor and the purpose of this section."

**SECTION 13.(c)** G.S. 36C-4-410(c) is repealed.

**SECTION 13.(d)** G.S. 36C-4-411(e) is repealed.

**SECTION 13.(e)** G.S. 36C-4-412(c) is repealed.

**SECTION 13.(f)** G.S. 36C-4-414(d) is repealed.

**SECTION 13.(g)** G.S. 36C-4-416 reads as rewritten:

**"§ 36C-4-416. Modification to achieve settlor's tax objectives.**

To achieve a settlor's tax objectives, the court may modify the terms of a trust in a manner that is not contrary to the settlor's probable intention. The court may provide that the modification has retroactive effect. ~~Jurisdiction of a proceeding brought under this section shall be as provided in G.S. 36C-2-203."~~

**SECTION 13.(h)** G.S. 36C-4-417(a) reads as rewritten:

"(a) Unless otherwise provided in the trust instrument, ~~after notice to the qualified beneficiaries, a trustee may~~ may do any of the following:

- (1) Consolidate the assets of more than one trust and administer the assets as one trust under the terms of one of the trusts if the terms of the trusts are substantially similar and the beneficiaries of the trusts are ~~identical; or identical.~~
- (2) Divide one trust into two or more separate trusts if the new trusts provide in the aggregate for the same succession of interests and beneficiaries as are provided in the original trust."

**SECTION 13.(i)** G.S. 36C-4-419 reads as rewritten:

**"§ 36C-4-419. Effect of inalienable interest on modification or termination.**

The court, in exercising its discretion to modify or terminate an irrevocable trust under G.S. 36C-4-411, 36C-4-412, or ~~36C-4-413~~ 36C-4-414 shall consider provisions making the interest of a beneficiary inalienable, including those described in Article 5, but the court is not precluded from the exercise of that discretion solely because of such provisions."

**SECTION 13.(j)** G.S. 36C-7-701(b) reads as rewritten:

"(b) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a ~~reasonable time, 120 days after written notice to accept the trusteeship is provided after receiving written notice of the trusteeship~~ is considered to have rejected the trusteeship."

**SECTION 13.(k)** G.S. 36C-8-815 reads as rewritten:

**"§ 36C-8-815. General powers of trustee.**

(a) A trustee, without authorization by the court, may ~~exercise~~ exercise any of the following:

- (1) Powers conferred by the terms of the ~~trust; or trust.~~
- (2) Except as limited by the terms of the trust:
  - a. All powers over the trust property that an unmarried competent owner has over individually owned property;
  - b. Any other powers appropriate to achieve the proper investment, management, administration, or distribution of the trust property; and
  - c. Any other powers conferred by this Chapter.

(b) ~~The exercise of a power is subject to the fiduciary duties prescribed by this Article. No provision of this section shall relieve a trustee of the fiduciary duties under this Article.~~

**SECTION 13.(l)** G.S. 6-21.5 reads as rewritten:

**"§ 6-21.5. Attorney's fees in nonjusticiable cases.**

In any ~~civil action or special proceeding~~ civil action, special proceeding, or estate or trust proceeding, the court, upon motion of the prevailing party, may award a reasonable attorney's fee to the prevailing party if the court finds that there was a complete absence of a justiciable issue of either law or fact raised by the losing party in any pleading. The filing of a general denial or the granting of any preliminary motion, such as a motion for judgment on the pleadings pursuant to G.S. 1A-1, Rule 12, a motion to dismiss pursuant to G.S. 1A-1, Rule 12(b)(6), a motion for a directed verdict pursuant to G.S. 1A-1, Rule 50, or a motion for summary judgment pursuant to G.S. 1A-1, Rule 56, is not in itself a sufficient reason for the court to award attorney's fees, but may be evidence to support the court's decision to make such an award. A party who advances a claim or defense supported by a good faith argument for an extension, modification, or reversal of law may not be required under this section to pay attorney's fees. The court shall make findings of fact and conclusions of law to support its award of attorney's fees under this section."

**SECTION 13.(m)** G.S. 32-55 reads as rewritten:

**"§ 32-55. Notice.**

(a) The trustee shall give written notice to all beneficiaries of each proposed payment of compensation if the annual amount of compensation exceeds four-tenths of one percent ( 4/10 of 1%) of the principal value of the assets of the trust on the last day of the trust accounting year. The notice shall contain a statement that the beneficiaries have 20 days from when notice is given to file a proceeding for review of the reasonableness of the compensation with the clerk of superior court in accordance with ~~Article 3 of Chapter 36A~~ Article 2 of Chapter 36C of the General Statutes."

**SECTION 13.(n)** G.S. 32-57(a) reads as rewritten:

"(a) The trustee or any beneficiary may initiate a proceeding under ~~Article 3 of Chapter 36A~~ Article 2 of Chapter 36C of the General Statutes for review of the reasonableness of any compensation or expense reimbursement and for the approval or denial of the payment of compensation or expense reimbursement. A beneficiary may initiate a proceeding even though the 20-day period referred to in G.S. 32-56(2) has expired."

**SECTION 13.(o)** G.S. 32-71 reads as rewritten:

**§ 32-71. Investment; prudent person rule.**

(a) In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for the benefit of another, a fiduciary shall observe the standard of judgment and care under the circumstances then prevailing, which an ordinarily prudent person of discretion and intelligence, who is a fiduciary of the property of others, would observe as such fiduciary; and if the fiduciary has special skills or is named a fiduciary on the basis of representations of special skills or expertise, he is under a duty to use those skills. This subsection and subsection (b) of this section do not apply to trusts governed by ~~Article 15 of this Chapter~~, Article 9 of Chapter 36C of the General Statutes.

(b) Within the limitations of the foregoing standard, a fiduciary is authorized to acquire and retain every kind of property and every kind of investment, including specifically, but without in any way limiting the generality of the foregoing, bonds, debentures, and other corporate or governmental obligations; stocks, preferred or common; real estate mortgages; shares in building and loan associations or savings and loan associations; annual premium or single premium life, endowment, or annuity contracts; and securities of any management type investment company or investment trust registered under the Federal Investment Company Act of 1940, as from time to time amended.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section and ~~Article 15 of this Chapter~~, Article 9 of Chapter 36C of the General Statutes, the duties of a trustee with respect to acquiring or retaining a contract of insurance upon the life of the settlor, or the lives of the settlor and the settlor's spouse, do not include a duty (i) to determine whether any such contract is or remains a proper investment; (ii) to exercise policy options available under any such contract; or (iii) to diversify any such contract. A trustee is not liable to the beneficiaries of the trust or to any other party for any loss arising from the absence of those duties upon the trustee.

(d) The trustee of a trust described under subsection (c) of this section established prior to October 1, 1995, shall notify the settlor in writing that, unless the settlor provides written notice to the contrary to the trustee within 60 days of the trustee's notice, the provisions of subsection (c) of this section shall apply to the trust. Subsection (c) of this section shall not apply if, within 60 days of the trustee's notice, the settlor notifies the trustee that subsection (c) of this section shall not apply.' "

**SECTION 13.(p)** G.S. 37A-2-202(b) reads as rewritten:

"(b) In determining a beneficiary's share of net income, the following rules apply:

- (1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

- (2) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in ~~trust-trust to which G.S. 37A-2-201(3) applies.~~
- (3) The beneficiary's fractional interest in the undistributed principal assets shall be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.
- (4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed."

**SECTION 13.(q)** G.S. 53-163.5(d) reads as rewritten:

"(d) Such bank or trust company may invest the funds held by it in any fiduciary capacity in one or more common trust funds, provided ~~that~~ (i) such investment is not prohibited by the instrument, judgment, decree or order creating such fiduciary relationship or amendment thereof; ~~(ii) in the case of co-fiduciaries the written consent of the co-fiduciary is obtained by the bank or trust company; and (iii) thereof, and (ii) that the bank has no interest in the assets of the common trust fund other than as a fiduciary.~~"

**SECTION 13.(r)** The Revisor of Statutes is authorized to cause to be printed any amendments to the explanatory comments of the drafters of S.L. 2005-192 that are prepared by the drafters of this section, as the Revisor deems appropriate.

**SECTION 13.(s)** This section becomes effective October 1, 2006, and applies to (i) all trusts created before, on, or after that date; (ii) all judicial proceedings concerning trusts commenced on or after that date; and (iii) all judicial proceedings concerning trusts commenced before that date unless the court finds that application of a particular provision of this act would substantially interfere with the effective conduct of the judicial proceedings or prejudice the rights of the parties, in which case the law as it existed on September 30, 2006, shall apply.

**SECTION 14.(a)** G.S. 53B-2(3) reads as rewritten:

"(3) "Financial record" means an original of, a copy of, or information derived from, a record held by a financial institution pertaining to a customer's relationship with the financial institution and identified with or identifiable with the customer. Financial record shall not include forged or counterfeit financial instruments or records relating to an account established under a fictitious name or another person's name without proper authorization."

**SECTION 14.(b)** G.S. 53B-4 reads as rewritten:

**"§ 53B-4. Access to financial records.**

Notwithstanding any other provision of law, no government authority may have access to a customer's financial record held by a financial institution unless the financial record is described with reasonable specificity and access is sought pursuant ~~to~~ to any of the following:

- (1) Customer authorization that meets the requirements of the Right to Financial Privacy Act § 1104, 12 U.S.C. § 3404, provided, however, a customer authorization received by a State agency or a county department of social services for the purpose of determining eligibility for the programs of public assistance under Chapter 108A of the General Statutes, or for purposes of a government inquiry concerning these same programs of public assistance, cannot be revoked and shall remain valid for 12 months unless a shorter period is specified in the authorization, or a customer authorization that is given by a licensed attorney with respect to an account in which the attorney holds funds as a ~~fiduciary;~~ fiduciary.
- (2) Authorization under G.S. 105-251, 105-251.1, or ~~105-258;~~ 105-258.

- (3) Search warrant as provided in Article 11 of Chapter 15A of the General ~~Statutes;~~Statutes.
- (4) Statutory authority of a supervisory agency to examine or have access to financial records in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial ~~institution;~~institution.
- (5) The authority granted under G.S. 116B-72 and G.S. ~~116B-75;~~116B-75.
- (6) Examination and review by the State Auditor or his authorized representative under G.S. 147-64.6(c)(9) or ~~G.S. 147-64.7(a);~~147-64.7(a).
- (7) Request by a government authority authorized to buy and sell student loan notes under Article 23 of Chapter 116 of the General Statutes for financial records relating to insured student ~~loans;~~loans.
- (8) Pending litigation to which the government authority and the customer are ~~parties;~~parties.
- (9) Subpoena or court order in connection with a grand jury ~~proceeding;~~proceeding.
- (10) A writ of execution under Article 28 of Chapter 1 of the General ~~Statutes;~~or Statutes.
- (11) Other court order or administrative or judicial subpoena authorized by law if the requirements of G.S. 53B-5 are met.
- (12) The authority granted to the Attorney General under Chapter 75 of the General Statutes.

As used in this section, the term "reasonable specificity" means that degree of specificity reasonable under all the circumstances, and, with respect to requests under G.S. 116B-72 and G.S. 116B-75, may include designation by general type or class."

**SECTION 14.(c)** This section becomes effective October 1, 2006, and applies to acts committed on or after that date.

**SECTION 14.5(a).** If Senate Bill 602, 2005 Regular Session becomes law, then Section 44(b) of that act is repealed.

**SECTION 14.5(b).** If Senate Bill 1479, 2005 Regular Session, becomes law, then G.S. 55-11-05(d), as enacted by Section 22 of S.L. 2005-268 and amended by Section 16(b) of Senate Bill 1479, 2005 Regular Session, reads as rewritten:

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

**SECTION 15.** G.S. 62-182.1 reads as rewritten:

**"§ 62-182.1. Access to dedicated public right-of-way.**

When any map or plat of a subdivision, recorded as provided in G.S. 47-30 and G.S. 136-102.6, reflects the dedication of a public street or other public right-of-way, the dedicated public street or public right-of-way shall, upon recordation of the map or plat, become immediately available for use by any public ~~utility~~ utility, telephone membership corporation organized under G.S. 117-30, or cable television system to install, maintain, and operate lines, cables, or facilities for the provision of service to the public. No public ~~utility~~ utility, telephone membership corporation organized under G.S. 117-30, or cable television system shall place or erect any line, cable, or facility in, over, or upon a street or right-of-way in a subdivision that is intended to become a public street or public right-of-way, until a map or plat of the subdivision has been recorded as provided in G.S. 47-30 and G.S. 136-102.6, and except in accordance with procedures established by the Department of Transportation, Division of Highways, for accommodating utilities or cable television systems on highway rights-of-way. Upon recordation of a map or plat of a subdivision as provided in G.S. 47-30 and G.S. 136-102.6, no liability shall attach to the developer of the property as a result of any activity of a public ~~utility~~ utility, telephone membership corporation organized under G.S. 117-30, or cable television system occurring in the dedicated public street or

public right-of-way. Nothing in this section shall relieve the developer of the property of responsibilities under G.S. 136-102.6."

**SECTION 16.(a)** G.S. 90-85.46(2)b. reads as rewritten:

"b. A program established by a person or entity holding a valid pharmacy permit pursuant to G.S. 90-85.21 or ~~G.S. 90-85.21(a)~~G.S. 90-85.21A to evaluate the quality of pharmacy services and alleged medication errors and incidents and make recommendations to improve the quality of pharmacy services."

**SECTION 16.(b)** G.S. 90-85.47(a) reads as rewritten:

"(a) Every person or entity holding a valid pharmacy permit pursuant to G.S. 90-85.21 or ~~G.S. 90-85.21(a)~~G.S. 90-85.21A shall establish or participate in a pharmacy quality assurance program as defined under G.S. 90-85.46(2), to evaluate the following:

- (1) The quality of the practice of pharmacy.
- (2) The cause of alleged medication errors and incidents.
- (3) Pharmaceutical care outcomes.
- (4) Possible improvements for the practice of pharmacy.
- (5) Methods to reduce alleged medication errors and incidents."

**SECTION 17.** G.S. 93E-1-7(a) reads as rewritten:

"(a) Trainee registrations, licenses, and certificates issued under this Chapter shall expire on the 30th day of June of every year and shall become invalid after that date unless renewed prior to the expiration date by filing an application with and paying to the Executive Director of the Board the fee of two hundred dollars (\$200.00). As a prerequisite to the renewal of a trainee registration or a real estate appraiser license or certificate, the trainee registration holder, the licensee, or the certificate holder must satisfy any continuing education requirements that may be prescribed by the Board under subsection (b) of this section; ~~provided, however, that members section. The members~~ of the General Assembly are exempt from this requirement and any education program regarding trainee supervision during their term of office. The Board may adopt rules establishing a system of trainee registration, license, and certificate renewal in which trainee registrations, licenses, and certificates expire annually with varying expiration dates."

**SECTION 18.** G.S. 95-25.3(g) is repealed.

**SECTION 19.** G.S. 97-19.1, as amended by Section 1 of S.L. 2006-26, reads as rewritten:

**"§ 97-19.1. Truck, tractor, or truck tractor trailer driver's status as employee or independent contractor.**

(a) An individual in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental motor vehicle regulatory agency may be an employee or an independent contractor under this Article dependent upon the application of the common law test for determining employment status.

Any principal contractor, intermediate contractor, or subcontractor, irrespective of whether such contractor regularly employs three or more employees, who contracts with an individual in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by ~~a governmental motor vehicle regulatory agency~~ the United States Department of Transportation and who has not secured the payment of compensation in the manner provided for employers set forth in G.S. 97-93 for himself personally and for his employees and subcontractors, if any, shall be liable as an employer under this Article for the payment of compensation and other benefits on account of the injury or death of the independent contractor and his employees or subcontractors due to an accident arising out of and in the course of the performance of the work covered by such contract.

(b) Notwithstanding subsection (a) of this section, a principal contractor, intermediate contractor, or subcontractor shall not be liable as an employer under this Article for the payment of compensation on account of the injury or death of the independent contractor if the principal contractor, intermediate contractor, or subcontractor (i) contracts with an independent contractor ~~that who is an individual licensed by a governmental motor vehicle regulatory agency the United States Department of Transportation~~ and (ii) the independent contractor personally is operating the vehicle solely pursuant to that license.

(c) The principal contractor, intermediate contractor, or subcontractor may insure any and all of his independent contractors and their employees or subcontractors in a blanket policy, and when insured, the independent contractors, subcontractors, and employees will be entitled to compensation benefits under the blanket policy.

A principal contractor, intermediate contractor, or subcontractor may include in the governing contract with an independent contractor in the interstate or intrastate carrier industry who operates a truck, tractor, or truck tractor trailer licensed by a governmental motor vehicle regulatory agency an agreement for the independent contractor to reimburse the cost of covering that independent contractor under the principal contractor's, intermediate contractor's, or subcontractor's coverage of his business."

**SECTION 19.5.(a)** G.S. 105-129.16D(b1), as enacted by S.L. 2006-66, reads as rewritten:

"(b1) Alternative Production Credit. – In lieu of the credit allowed under subsection (b) of this section, a taxpayer that constructs and places in service in this State three or more commercial facilities for processing renewable fuel and that invests a total amount of at least four hundred million dollars (\$400,000,000) in the facilities is allowed a credit equal to thirty-five percent (35%) of the cost to the taxpayer of constructing and equipping the facilities. In order to claim the credit, the taxpayer must obtain a written determination from the Secretary of Commerce that the taxpayer is expected to invest within a five-year period a total amount of at least four hundred million dollars (\$400,000,000) in three or more facilities. The credit must be taken in seven equal annual installments beginning with the taxable year in which the first facility is placed in service. If, in one of the years in which the installment of credit accrues, a facility with respect to which the credit was claimed is disposed of or taken out of service and the investment requirements of this subsection are no longer satisfied, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under G.S. 105-129.17. If a credit allowed under this subsection expires, a taxpayer is not eligible for a credit under subsection (b) of this section with respect to the same property. Notwithstanding the provisions of ~~G.S. 105-129.17(a), 105-129.17,~~ a taxpayer may claim the credit allowed under this subsection against the income tax imposed under Article 4 of this Chapter only, only and the taxpayer may carry forward unused portions of the credit allowed under this subsection for the succeeding 10 years."

**SECTION 19.5.(b)** This section is effective for taxable years beginning on or after January 1, 2006.

**SECTION 20.** G.S. 105A-2(6) reads as rewritten:

"§ 105A-2. Definitions.

The following definitions apply in this Chapter:

- ...  
(6) Local agency. – Any of the following:
- a. A county, to the extent it is not considered a State agency.
  - b. A municipality.
  - c. A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.

- d. A regional joint agency created by interlocal agreement under Article 20 of Chapter 160A of the General Statutes between two or more counties, cities, or both.
- e. A public health authority created under Part 1B of Article 2 of Chapter 130A of the General ~~Statutes~~. Statutes or other authorizing legislation.
- f. A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.
- g. A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

...."

**SECTION 20.5.** If Senate Bill 1587, 2005 Regular Session, becomes law, then G.S. 113-174.3(a), as enacted by that act, reads as rewritten:

"(a) License. – A person who operates a for hire boat may purchase a For Hire Blanket CRFL issued by the Division. A For Hire Blanket CRFL authorizes all individuals on the for hire boat who do not hold a license issued under this Article or Article 25A of this Chapter to engage in recreational fishing in coastal fishing waters that are not joint fishing waters. A For Hire Blanket CRFL does not authorize individuals to engage in recreational fishing in joint fishing waters or inland fishing waters. This license is valid for a period of one year from the date of issuance. The fee for a For Hire Blanket CRFL is:

- (1) Two hundred fifty dollars (\$250.00) for a vessel ~~captained by an individual who holds a certification from the United States Coast Guard to that will~~ carry six or fewer passengers.
- (2) Three hundred fifty dollars (\$350.00) for a vessel ~~captained by an individual who holds a certification from the United States Coast Guard to that will~~ carry greater than six passengers."

**SECTION 21.** G.S. 115D-20(3) reads as rewritten:

"(3) To purchase any land, easement, or right-of-way which shall be necessary for the proper operation of the institution, upon approval of the State Board of Community Colleges, and if necessary, to acquire land by condemnation in the same manner and under the same procedures as provided in General Statutes Chapter 40A. For the purpose of condemnation, the determination by the trustees as to the location and amount of land to be taken and the necessity therefor shall be conclusive."

**SECTION 22.** G.S. 120-36.2 reads as rewritten:

**"§ 120-36.2. Organization.**

(a) The Legislative Services Commission shall ~~elect~~appoint a Director of Fiscal Research, who shall serve at the pleasure of the Commission. The Director of Fiscal Research shall be responsible to the Legislative Services Officer in the performance of his duties.

(b) The Director of Fiscal Research ~~shall appoint and may remove, after consultation with the Legislative Services Officer and subject in each case to the approval of the Commission, the professional and clerical employees of the Division. He shall~~ assign the duties and supervise and direct the activities of the employees of the Division.

(c) The Director and employees of the Division shall receive salaries that shall be fixed by the Commission, shall receive the travel and subsistence allowances fixed by G.S. 138-6 and 138-7, and shall be entitled to the other benefits available to State employees."

**SECTION 23.** G.S. 122C-142, as amended by S.L. 2006-142, reads as rewritten:

**"§ 122C-142. Contract for services.**

(a) When the area authority contracts with persons for the provision of services, it shall use the standard contract adopted by the Secretary and shall assure that these contracted services meet the requirements of applicable State statutes and the rules of the Commission and the Secretary. However, an area authority or county program may amend the contract to comply with any court-imposed duty or responsibility. An area authority or county program that is operating under a Medicaid waiver may amend the contract subject to the approval of the Secretary. Terms of the standard contract shall require the area authority to monitor the contract to assure that rules and State statutes are met. It shall also place an obligation upon the entity providing services to provide to the area authority timely data regarding the clients being served, the services provided, and the client outcomes. The Secretary may also monitor contracted services to assure that rules and State statutes are met."

**SECTION 23.1.(a)** G.S. 126-7.1 is amended by adding a new subsection to read:

"(f) Each State agency, department, institution, university, community college, and local education agency shall verify, in accordance with the Basic Pilot Program administered by the United States Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq, each individual's legal status or authorization to work in the United States after hiring the individual as an employee to work in the United States."

**SECTION 23.1.(b)** This section does not apply to persons under contract or subcontract. This section applies to employees hired on or after January 1, 2007, except that it applies to employees of local education agencies hired on or after March 1, 2007.

**SECTION 24.(a)** G.S. 128-1.1 is amended to add a new subsection to read:

"(c1) Where authorized by federal law, any State or local law enforcement agency may authorize its law enforcement officers to also perform the functions of an officer under 8 U.S.C. § 1357(g) if the agency has a Memorandum of Agreement or Memorandum of Understanding for that purpose with a federal agency. State and local law enforcement officers authorized under this provision are authorized to hold any office or position with the applicable federal agency required to perform the described functions."

**SECTION 24.(b)** This section becomes effective January 1, 2006, and any actions taken between that date and the date this section becomes law that would have been proper if this section had been then in effect are in all respects validated and confirmed, and no office shall be considered to have been vacated.

**SECTION 24.5.** G.S. 143-143.21A(d) reads as rewritten:

"(d) The dealer shall return the deposit or other payment toward or payment for the purchase price to the buyer if the buyer cancels the purchase before midnight of the third business day after the date the buyer signed the purchase agreement or if any of the material terms of the purchase agreement are changed by the dealer. To make the cancellation effective, the buyer shall give the dealer written notice of the buyer's cancellation of the purchase. The dealer shall return the deposit or other payment toward or payment for the purchase price to the buyer within seven business ~~days~~ days, or 15 business days when payment is by personal check, after receipt of the notice of cancellation or within three business days of any change by the dealer of the purchase agreement. For purposes of this section, "business day" means any day except Sunday and legal holidays. Each time the dealer gives the buyer a new set of financing terms, unless the financing terms are more favorable to the buyer, the buyer shall be given another three-day cancellation period. The dealer shall not commence setup procedures until after the final three-day cancellation period has expired."

**SECTION 25.** G.S. 143B-131.2 reads as rewritten:

**§ 143B-131.2. Roanoke Island Commission – Purpose, powers, and duties.**

(a) The Commission is created to combine various existing entities in the spirit of cooperation for a cohesive body to protect, preserve, develop, and interpret the historical and cultural assets of Roanoke Island. The Commission is further created to operate and administer the Elizabeth II State Historic Site and Visitor Center, the

Elizabeth II, Ice Plant Island, and all other properties under the administration of the Department of Cultural Resources located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo, except as otherwise determined by the Commission.

(b) The Commission shall have the following powers and duties:

- (1) To advise the Secretary of Transportation and adopt rules on matters pertaining to, affecting, and encouraging restoration, preservation, and enhancement of the appearance, maintenance, and aesthetic quality of U.S. Highway 64/264 and the U.S. 64/264 Bypass and ~~N.C. 400 travel corridors~~ travel corridor on Roanoke Island and the grounds on Roanoke Island Festival Park.
- (2) To operate the Elizabeth II State Historic Site and Visitor Center and the Elizabeth II as permanent memorials commemorating the Roanoke Voyages, 1584-1587.
- (3) To supervise the development of Ice Plant Island and to manage future facilities.
- (4) To advise the Secretary of the Department of Cultural Resources on matters pertinent to historical and cultural events on Roanoke Island.
- (5) With the assistance of the Department of Cultural Resources, to identify, preserve, and protect properties located on Roanoke Island having historical significance to the State of North Carolina, Dare County, or the Town of Manteo consistent with applicable State laws and rules.
- (6) To establish and collect a charge for admission to any property or event operated by the Commission.
- (7) To solicit and accept gifts, grants, and donations.
- (8) To cooperate with the Secretary and Department of Cultural Resources, the Secretary and Department of Transportation, the Secretary and Department of Environment and Natural Resources, and other governmental agencies, officials, and entities, and provide them with assistance and advice.
- (9) To adopt and enforce such bylaws, rules, and guidelines that the Commission deems to be reasonably necessary in order to carry out its powers and duties. Chapter 150B of the General Statutes does not apply to the adoption of rules by the Commission.
- (10) To establish and maintain a separate fund composed of moneys which may come into its hands from gifts, donations, grants, or bequests, which funds will be used by the Commission for purposes of carrying out its duties and purposes herein set forth. The Commission may also establish a reserve fund to be maintained and used for contingencies and emergencies. Funds appropriated to the Commission may be transferred to the Friends of Elizabeth II, Inc., a private, nonprofit corporation. The Friends of Elizabeth II, Inc., shall use the funds transferred to it to carry out the purposes of this Part.
- (11) By cooperative arrangement with other agencies, groups, individuals, and other entities, to coordinate and schedule historical and cultural events on Roanoke Island.
- (12) Make recommendations to the Secretary of Cultural Resources concerning personnel and budgetary matters.
- (13) To acquire real and personal property by purchase, gift, bequest, devise, and exchange.
- (14) To administer the Roanoke Island Commission Fund and the Roanoke Island Commission Endowment Fund as provided in G.S. 143B-131.8.
- (15) To procure supplies, services, and property as appropriate and to enter into contracts, leases, or other legal agreements to carry out the

purposes of this Part and duties of the Commission. The provisions of G.S. 143-129 and Article 3 of Chapter 143 of the General Statutes do not apply to purchases by the Roanoke Island Commission of equipment, supplies, and services."

**SECTION 26.(a)** G.S. 153A-340(b)(2) reads as rewritten:

"(2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products as defined in G.S. 106-581.1 having a domestic or foreign market. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose."

**SECTION 26.(b)** This section becomes effective January 1, 2007.

**SECTION 27.(a)** G.S. 153A-376(f) reads as rewritten:

"(f) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient "economically distressed counties", as defined in ~~G.S. 143B-437A~~ G.S. 143B-437.01 for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by counties of Small Cities Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the county shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of ~~G.S. 143B-437A~~ G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of economically distressed counties made prior to its expiration."

**SECTION 27.(b)** G.S. 160A-456(e1) reads as rewritten:

"(e1) All program income from Economic Development Grants from the Small Cities Community Development Block Grant Program may be retained by recipient cities in "economically distressed counties", as defined in ~~G.S. 143B-437A~~ G.S. 143B-437.01, for the purposes of creating local economic development revolving loan funds. Such program income derived through the use by cities of Small Cities Community Development Block Grant money includes but is not limited to: (i) payment of principal and interest on loans made by the county using Community Development Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired with Community Development Block Grant Funds; and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The local economic development revolving loan fund set up by the city shall fund only those activities eligible under Title I of the federal Housing and Community Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing and Community Development Act. Any expiration of ~~G.S. 143B-437A~~ G.S. 143B-437.01 or G.S. 105-129.3 shall not affect this subsection as to designations of economically distressed counties made prior to its expiration."

**SECTION 28.** G.S. 160A-383 reads as rewritten:

"Zoning regulations shall be made in accordance with a comprehensive plan. ~~Prior to~~ When adopting or rejecting any zoning amendment, the governing board shall ~~adopt~~ also approve a statement describing whether its action is consistent with an

adopted comprehensive plan and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.

The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board.

Zoning regulations shall be designed to promote the public health, safety, and general welfare. To that end, the regulations may address, among other things, the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; and to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city."

**SECTION 29.(a)** G.S. 163-278.83 reads as rewritten:

**"§ 163-278.83. Penalties.**

Except as otherwise provided in this Article, a violation of this Article is a Class 2 misdemeanor. The State Board of Elections has the same authority to compel from any ~~organization~~ individual, committee, association, or any other organization or group of individuals covered by this Article the disclosures required by this Article that the Board has to compel ~~from a political committee~~ the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article, and where those provisions apply to violations involving contributions and expenditures they shall apply in the same manner to payments and disbursements in violation of G.S. 163-278.82."

**SECTION 29.(b)** G.S. 163-278.93 reads as rewritten:

**"§ 163-278.93. Penalties.**

Except as otherwise provided in this Article, a violation of this Article is a Class 2 misdemeanor. The State Board of Elections has the same authority to compel from any ~~organization~~ individual, committee, association, or any other organization or group of individuals covered by this Article the disclosures required by this Article that the Board has to compel ~~from a political committee~~ the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article, and where those provisions apply to violations involving contributions and expenditures they shall apply in the same manner to payments and disbursements in violation of G.S. 163-278.92."

**SECTION 29.(c)** If House Bill 966 of the 2005 Regular Session becomes law, G.S. 163-278.102 reads as rewritten:

**"§ 163-278.102. Penalties.**

The State Board of Elections has the same authority to compel from any ~~organization~~ individual, committee, association, or any other organization or group of individuals covered by this Article the disclosures required by this Article that the Board has to compel ~~from a political committee~~ the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article."

**SECTION 29.(d)** If House Bill 966 of the 2005 Regular Session becomes law, G.S. 163-278.112 reads as rewritten:

**"§ 163-278.112. Penalties.**

The State Board of Elections has the same authority to compel from any ~~organization individual, committee, association, or any other organization or group of individuals~~ covered by this Article the disclosures required by this Article that the Board has to compel ~~from a political committee~~ the disclosures required by Article 22A of this Chapter. The civil penalties and remedies in G.S. 163-278.34 shall apply to violations of this Article."

**SECTION 29.(e)** If House Bill 966 of the 2005 Regular Session becomes law, G.S. 163-278.100(4) as enacted by that law reads as rewritten:

"(4) The term "targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the General Assembly and which can be received by 50,000 or more individuals in the State in the case of a candidacy for statewide office and ~~2,500-7,500~~ or more individuals in the district in the case of a candidacy for General Assembly."

**SECTION 30.** Section 2.18 of S.L. 2004-158 reads as rewritten:

**"SECTION 2.18.(a)** Jack Olsen of Moore County is appointed to the State Judicial Council for a term expiring on ~~December 31, 2007.~~December 31, 2006.

**SECTION 2.18.(b)** Effective January 1, 2005, Dumont Clarke of Mecklenburg County is appointed to the State Judicial Council for a term expiring on ~~December 31, 2009.~~December 31, 2008."

**SECTION 31.(a)** Section 3(c) of S.L. 2005-190 reads as rewritten:

**"SECTION 3.(c) Nutrient management strategy.** – The Environmental Management Commission shall develop a nutrient management strategy for drinking water supply reservoirs to which this section applies by 1 July ~~2008-2009.~~ The nutrient management strategy shall be based on a calibrated nutrient response model that meets the requirement of G.S. 143-215.1(c5). The nutrient management strategy shall include specific mandatory measures to achieve the reduction goals. The Commission shall consider the cost of the proposed measures in relation to the effectiveness of the measures. These measures could include, but are not limited to, buffers, erosion and sedimentation control requirements, post-construction stormwater management, agricultural nutrient reduction measures, the addition of nutrient removal treatment processes to point source permitted wastewater treatment plants, the removal of point source discharging wastewater treatments through regionalization and conversion to non-discharge treatment technologies, and any other measures that the Commission determines to be necessary to meet the nutrient reduction goals. To the extent that one or more other State programs already mandate any of these measures, the nutrient management strategy shall incorporate the mandated measures and any extension of those measures and any additional measures that may be necessary to achieve the nutrient reduction goals. In making a nutrient loading allocation to a permit holder, the Commission shall, to the extent allowed by federal and State law, give consideration to all voluntary efforts taken by the permit holder to protect water quality prior to the development of the nutrient management strategy."

**SECTION 31.(b)** Section 3(e) of S.L. 2005-190 reads as rewritten:

**"SECTION 3.(e) Implementation; rulemaking.** – The Environmental Management Commission shall adopt permanent rules to implement the nutrient management strategies required by this section by 1 July ~~2008-2009.~~ The rules shall require that reductions in nutrient loading from all sources begin no later than five years after the rules become effective."

**SECTION 31.(c)** Section 4 of S.L. 2005-190 reads as rewritten:

**"SECTION 4. Other drinking water supply reservoirs.** – The Environmental Management Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into any drinking water supply reservoir for which the Division of Water Quality of the Department of Environment and Natural Resources has prepared or updated a calibrated nutrient response model

since 1 July 2002 until permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective. The Commission shall report its progress in developing and implementing nutrient management strategies for reservoirs to which this section applies to the Environmental Review Commission by 1 April ~~2006~~ of each year beginning 1 April 2006."

**SECTION 31.5.** Section 13 of S.L. 2005-294 reads as rewritten:

**"SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006. Sections 1, 2, 3, 5, 6, 7, 9, 10, and 11 of this act become effective July 1, ~~2009, 2010,~~ or when the Division of Motor Vehicles and the Department of Revenue certify that the integrated computer system for registration renewal and property tax collection for motor vehicles is in operation, whichever occurs first. Sections 12 and 13 of this act are effective when they become law. Nothing in this act shall require the General Assembly to appropriate funds to implement it for the biennium ending June 30, 2007."

**SECTION 32.** Section 2.3 of S.L. 2005-421 reads as rewritten:

**"SECTION 2.3.** Dr. Paul Rush of Scotland County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term expiring on June 30, ~~2008, 2007.~~"

**SECTION 33.(a)** The lead-in language of Section 6 of S.L. 2006-6 reads as rewritten:

**"SECTION 6.** ~~G.S. 147-12(14)~~G.S. 147-12(a)(14) reads as rewritten:"

**SECTION 33.(b)** This section becomes effective June 6, 2006.

**SECTION 33.5.** S.L. 2006-66 is amended by inserting a new section to read:

**"SECTION 17.7.** G.S. 143B-394.4(4) reads as rewritten:

"(4) "Displaced homemaker" means an individual who:

- a. Has worked in his or her own household and has provided unpaid household services; and
- b. Is unable to secure gainful employment due to the lack of required training, age, or experience; or is unemployed, or underemployed; and
- c. Has been dependent on the income of another household member but is no longer adequately supported by that income, or is receiving support but is within two years of losing the support, or has been supported by public assistance as the parent of minor children ~~and is no longer eligible, but is no longer eligible, or is within two years of losing the eligibility.~~

**SECTION 34.** The introductory language of Section 3(o) of S.L. 2006-69 reads as rewritten:

**"SECTION 3.(o)** The catch line to Part 13A of Article 3 of Chapter 143B of the General Statutes reads as rewritten:"

**SECTION 35.** The title of S.L. 2006-85 is amended to read: "AN ACT TO PROVIDE MEMBERSHIP GUIDELINES FOR THE JACKSON COUNTY AIRPORT AUTHORITY AND TO PROVIDE FOR THE FILLING OF VACANCIES IN THE AIRPORT AUTHORITY."

**SECTION 36.** Section 1 of S.L. 2006-89 reads as rewritten:

**"SECTION 1.** The transfer of real property by the High Point Alcoholic Beverage Control Board located at Lot B of the property of The Mitchell Company as described in Book ~~5584, 5548,~~ pages 0182 to 0184, per plats thereof recorded in the Office of the Register of Deeds for Guilford County, North Carolina, in 2002, and 910 Greensboro Road, High Point, North Carolina, as described in Book 6389, pages 0107 to 0109 and recorded in the Office of the Register of Deeds for Guilford County, North Carolina, in 2005, shall not be deemed invalid for failure to follow the procedures for the sale of real property outlined in Article 12 of Chapter 160A."

**SECTION 37.** Section 4.1 of S.L. 2006-113 reads as rewritten:

**"SECTION 4.1.** Part III of this act becomes effective December 1, 2006, and applies to offenses committed on or after that date. ~~This~~ The remainder of this act

becomes effective December 1, 2006, and applies to actions commenced on or after that date."

**SECTION 38.** Section 3(a) of S.L. 2006-126 reads as rewritten:

**"SECTION 3.(a)** The maximum building height on any building within the corporate limits of the City of Hendersonville shall not exceed 64 feet. For purposes of this section, building height shall mean the vertical distance measured from the average grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof. The height limitation created by this subsection does not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. No variance to this subsection may be granted. This subsection does not apply to hospitals, churches, cultural performing arts centers, government buildings, or buildings erected prior to the effective date of this section."

**SECTION 39.** If House Bill 767, 2005 Regular Session, becomes law, then G.S. 157-29(b), as amended by that act, reads as rewritten:

"(b) In the operation or management of housing projects, portions of projects, or other housing assistance programs for persons of low income, an authority shall at all times observe the following duties with respect to rentals and tenant selection:

- (1) It may rent or lease dwelling accommodations set aside for persons of low income only to persons who lack the amount of income that is necessary (as determined by the housing authority undertaking the project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding; and
- (2) It may rent or lease dwelling accommodations to persons of low income only at rentals within the financial reach of such persons.
- (3a) It shall comply with the following targeting requirements:
  - a. Not less than forty percent (40%) of the families admitted to its public housing program from its waiting list in its fiscal year shall be extremely low-income families with incomes at or below thirty percent (30%) of the area median income. For purposes of this section, this shall be known as the "basic targeting requirement".
  - b. To the extent provided in ~~subdivision (4a) of this subsection, sub-subdivisions c. and d. of this subdivision,~~ the admission of extremely low-income families to its ~~section 8~~ Section 8 voucher program during the same fiscal year shall be credited against the basic targeting requirement. For purposes of this section, ~~"section 8"~~ "Section 8" refers to ~~section 8~~ Section 8 of the U.S. Housing Act of 1937 as amended.
  - c. If admissions of extremely low-income families to its ~~section 8~~ Section 8 voucher program during its fiscal year ~~exceeds~~ exceed ~~the~~ the seventy-five percent (75%) ~~of the~~ minimum targeting requirement for its ~~section 8~~ Section 8 voucher program, the excess shall be credited against its basic targeting requirement for the same fiscal year.
  - d. The fiscal year credit for ~~section 8~~ Section 8 voucher program admissions that exceeded the minimum ~~section 8~~ Section 8 voucher program targeting requirement shall not exceed the lower of any of the following:
    1. Ten percent (10%) of its waiting list admissions during its fiscal year.
    2. Ten percent (10%) of waiting list admissions to its ~~section 8~~ Section 8 tenant-based assistance program during its fiscal year.

3. The number of qualifying low-income families who, during the fiscal year, commence occupancy of its public housing units that are located in census tracts with a poverty rate of thirty percent (30%) or more. For purposes of this sub-sub-subdivision, qualifying low-income family means a low-income family other than an extremely low-income family.

(4a) Its targeting requirement for tenant-based assistance shall ensure that not less than seventy-five percent (75%) of the families admitted to its tenant-based voucher program from its waiting list during its fiscal year shall be extremely low-income families with incomes at or below thirty percent (30%) of the area median income."

**SECTION 40.(a)** If House Bill 914, 2005 Regular Session, becomes law, effective July 1, 2007, G.S. 143B-426.39A, 143B-426.39B, and 143B-426.39C, as enacted by Section 9 of House Bill 914, are recodified as G.S. 143B-426.39D, 143B-426.39E, and 143B-426.39F. The Revisor of Statutes is authorized to change the references to G.S. 143B-426.39A, 143B-426.39B, and 143B-426.39C in G.S. 143B-426.39, 53-245(b), 62A-22(d), 96-6, 147-9.3, 174-9.4 as amended by Sections 8, 17, 19, 23, 112, and 113 of House Bill 914, to the correct recodified statutory references.

**SECTION 40.(b)** If House Bill 914, 2005 Regular Session, becomes law, effective July 1, 2007, the same amendment to G.S. 143-3.3(g), made by Section 6.35 of S.L. 2005-276, is also made to G.S. 143B-426.39D(g), as enacted by Section 9 of House Bill 914 and recodified by Section 40(a) of this act.

**SECTION 40.(c)** If House Bill 914, 2005 Regular Session, becomes law, effective July 1, 2007, G.S. 143B-426.39(6) reads as rewritten:

"(6) Prescribe, develop, operate, and maintain a uniform payroll system, in accordance with ~~G.S. 143-3.2 and G.S. 143-34.1~~, G.S. 143B-426.39E and G.S. 143C-6-6 for all State agencies. This uniform payroll system shall be designed to assure compliance with all legal and constitutional requirements. When the State Controller finds it expedient to do so because of a State agency's size and location, the State Controller may authorize a State agency to operate its own payroll system. Any State agency authorized by the State Controller to operate its own payroll system shall comply with the requirements adopted by the State Controller."

**SECTION 40.(d)** To reflect the provisions of G.S. 143-16.6 which was enacted in Section 34.1(d) of S.L. 2005-276, if House Bill 914, 2005 Regular Session becomes law, then effective July 1, 2007, Article 9 of Chapter 143C of the General Statutes, as enacted by Section 3 of House Bill 914, 2005 Regular Session, is amended by adding a new section to read:

**"§ 143C-9-5. Assignment to the State of rights to tobacco manufacturer escrow funds.**

A tobacco product manufacturer that elects to place funds into escrow pursuant to G.S. 66-291(a)(2) may make an assignment of its interest in the funds to the benefit of the State. The assignment applies to all funds, and any earnings and appreciation, that are in the escrow account at the time of the assignment or are subsequently deposited into the escrow account and are not released under the provisions of subdivision (1) or (2) of G.S. 66-291(b) at any time on or before the expiration of 10 years from the date of assignment. The assignment is irrevocable and shall include any reversionary interest in the escrow account and the funds therein that would otherwise belong to the tobacco manufacturer, including the right to receive the escrowed funds pursuant to G.S. 66-291(b)(3).

An assignment of rights executed pursuant to this section shall be in writing and shall be signed by a duly authorized representative of the tobacco product manufacturer

making the assignment. An assignment is effective upon delivery to the Attorney General and the financial institution where the escrow account is maintained."

**SECTION 40.(e)** If a final judgment by a court of competent jurisdiction declares that G.S. 143C-9-5, as enacted by subsection (d) of this section, is invalid or unenforceable, then the statute is repealed, and any assignment made under it is void. If, as a result of a final judgment, it is determined that G.S. 143C-9-5, as enacted by subsection (d) of this section, would subject payments to this State by participating manufacturers under the Master Settlement Agreement, as defined in G.S. 66-290, to a Non-Participating Manufacturer Adjustment under Section IX of that Agreement, then G.S. 143C-9-5 is repealed, and any assignment made under it is void.

**SECTION 40.(f)** If House Bill 914, 2005 Regular Session, becomes law, then effective July 1, 2007, Article 9 of Chapter 143C, as enacted by Section 3 of House Bill 914, 2005 Regular Session, is amended by adding a new section to read:

**"§ 143C-9-6. JDIG Reserve Fund.**

(a) The State Controller shall establish a reserve in the General Fund to be known as the JDIG Reserve. Funds from the JDIG Reserve shall not be expended or transferred except in accordance with G.S. 143B-437.63.

(b) It is the intent of the General Assembly to appropriate funds annually to the JDIG Reserve established in this section in amounts sufficient to meet the anticipated cash requirements for each fiscal year of the Job Development Investment Grant Program established pursuant to G.S. 143B-437.52."

**SECTION 40.(g)** If House Bill 914, 2005 Regular Session, becomes law, then effective July 1, 2007, G.S. 143C-3-1, as enacted by Section 2 of House Bill 914, 2005 Regular Session, reads as rewritten:

**"§ 143C-3-1. Budget estimate for the legislative branch.**

~~The Legislative Administrative Services Officer~~ shall give the Director an estimate of the financial needs of the legislative branch for the upcoming fiscal period in accordance with the schedule prescribed by the Director. The estimates for the legislative branch shall be approved and certified by the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The estimates shall be itemized in accordance with the accounting classifications adopted by the Controller. The Director shall include the estimates in the budget the Director submits to the General Assembly. The Director may recommend changes to these estimates in the budget submitted to the General Assembly."

**SECTION 40.(h)** If House Bill 914, 2005 Regular Session, becomes law, then effective July 1, 2007, G.S. 143C-1-1(b), as enacted by Section 2 of House Bill 914, 2005 Regular Session, reads as rewritten:

(b) The provisions of this Chapter shall apply to every State agency and to every non-State entity that receives or expends any State funds. No State agency or non-State entity shall expend any State funds except in accordance with an act of appropriation and the requirements of this Chapter. The provisions of Chapter 120 of the General Statutes shall continue to apply to the General Assembly and to control its expenditures and in the event of a conflict with this Chapter, the provisions of Chapter 120 of the General Statutes shall control. Nothing in this Chapter abrogates or diminishes the inherent power of the legislative, executive, or judicial branch."

**SECTION 40.(i)** If Senate Bill 198, 2005 Regular Session, becomes law, this section is repealed.

**SECTION 40.5.** If House Bill 914 and Senate Bill 198, 2005 Regular Session become law, then (i) G.S. 143C-9-3A as enacted by Section 6.19(d) of S.L. 2006-66 as enacted by Section 3A of Senate Bill 198 is recodified as G.S. 143C-9-5, (ii) Section 6.19(e) of S.L. 2006-66 as enacted by Section 3A of Senate Bill 198 is amended by deleting "143C-9-3A" whenever it appears and inserting "143C-9-5", (iii) Section 6.19(e) of S.L. 2006-66 as enacted by Section 3A of Senate Bill 198 is amended by deleting "subsection (b)" and substituting "subsection (d)", and (iv) G.S. 143C-3B as

enacted by Section 6.19(f) of S.L. 2006-66, as enacted by Section 3A of Senate Bill 198 is recodified as G.S. 143C-9-6.

**SECTION 41.** If House Bill 1231, 2005 Regular Session, becomes law, then G.S. 75-38(d), as enacted by House Bill 1231, reads as rewritten:

"(d) A "triggering event" means the declaration of a state of emergency pursuant to G.S. ~~166A-8, 166A-8~~ or Article 36A of Chapter 14 of the General Statutes, the proclamation of a state of disaster pursuant to ~~Article 36A of Chapter 14 of the General Statutes~~, G.S. 166A-6, or a finding of abnormal market disruption pursuant to G.S. 75-38(e)."

**SECTION 42.** If House Bill 1327, 2005 Regular Session, becomes law, then G.S. 114-19.16, as enacted by that act, is recodified as G.S. 114-19.18. If House Bill 1848, 2005 Regular Session, becomes law, then G.S. 114-19.16, as enacted by that act, is recodified as G.S. 114-19.19.

**SECTION 43.** If both House Bill 1827 and House Bill 2882, 2005 Regular Session, become law, then Section 3 of House Bill 1827 is repealed.

**SECTION 43.5.(a)** If House Bill 1843, 2005 Regular Session, becomes law, then the following provisions of Article 6 of Chapter 120C of the General Statutes, as enacted by Section 18 of House Bill 1843, are amended as follows:

- (1) G.S. 120C-600(a) is amended in the second sentence by deleting "Article 4 or Article 8" and substituting "Articles 2, 4, or 8".
- (2) G.S. 120C-600(b) is amended in the first sentence by deleting "Articles 4 and 8" and substituting "Articles 2, 4, and 8" and in the second sentence by deleting "Articles 4 and 8" and substituting "Articles 2, 4, and 8".
- (3) G.S. 120C-600(c) is amended by deleting "Articles 4 and 8" and substituting "Articles 2, 4, and 8".
- (4) G.S. 120C-601(a) is amended by deleting "Article 4 or Article 8" and substituting "Articles 2, 4, or 8".
- (5) G.S. 120C-602(b) is amended in the first sentence by deleting "Article 4 or 8" and substituting "Articles 2, 4, or 8" and in the second sentence by deleting "Article 4 or Article 8" and substituting "Article 2, 4, or 8".

**SECTION 43.5.(b)** If House Bill 1843, 2005 Regular Session, becomes law then G.S. 120C-603(a) as enacted by that act reads as rewritten:

"(a) The Commission or the Secretary of State, as appropriate, may investigate complaints of violations of this Chapter and shall report apparent violations of this Chapter to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person who violates any provisions of this Chapter."

**SECTION 43.5.(c)** This section becomes effective January 1, 2007.

**SECTION 44.(a)** If House Bill 1848, 2005 Regular Session, becomes law, Section 4 of S.L. 2006-32 as amended by Section 8 of House Bill 1848 reads as rewritten:

**"SECTION 4.** The Legislative Research Commission ~~and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services (LOC)~~ shall study drug treatment courts in North Carolina. The study shall include the following issues in relation to drug treatment courts:

- (1) Funding mechanisms;
- (2) Target populations;
- (3) Interagency collaboration at the State and local levels; and
- (4) Any other matter that the Commissions deem appropriate or necessary to provide proper information to the General Assembly on the subject of the study.

The Commission may report its findings and recommendations to the 2007 Regular Session of the 2007 General Assembly."

**SECTION 44.(b)** If House Bill 1848, 2005 Regular Session, becomes law, Section 12 of the bill reads as rewritten:

"**SECTION 12.** In order to provide for an orderly transition in membership to the Judicial Standards Commission to the six-year terms specified in G.S. 7A-375(b), as amended by Section 11 of this act, and notwithstanding G.S. 7A-375(b), as amended by Section 11 of this act, the following provisions apply:

- (1) The initial terms of the new district court ~~judge, judge, and~~ of one new member of the North Carolina Bar—Bar, and of one citizen upon recommendation of the Speaker of the House of Representatives, appointed to the Commission effective January 1, 2007, shall be ~~three two-year~~ terms.
- (2) The initial terms of all other new members appointed to the Commission effective January 1, 2007, shall be ~~six five-year~~ terms.
- (3) ~~The term of the citizen appointed by the Governor to the Commission effective January 1, 2007, shall be a three year term.~~
- (4) ~~The term for the citizen appointed by the Governor to the Commission effective January 1, 2010, shall be a three year term."~~

**SECTION 45.(a)** If House Bill 1895, 2005 Regular Session, becomes law, then G.S. 58-50-245(17) reads as rewritten:

- "(17) "Insurer" means any entity that provides health insurance coverage in this State. For the purposes of this Part, insurer includes:
- a. An insurance company;
  - b. A hospital or medical service corporation;
  - c. A health maintenance organization;
  - d. A multiple employer welfare arrangement;
  - e. A third-party administrator or claims processor;
  - f. An administrative service organization; and
  - g. Any other nongovernmental entity providing a health benefit plan subject to State insurance ~~regulation; and regulation."~~

**SECTION 45.(b)** If House Bill 1895, 2005 Regular Session, becomes law, then G.S. 58-50-250(b)(2) reads as rewritten:

- "(2) Two members of the general public who are not employed by or affiliated with an insurance company or plan, group hospital, or other health care provider, and can reasonably be expected to qualify for coverage in the Pool. Members of the general public include individuals whose only affiliation with health insurance or health care coverage is as a covered member. The two members of the general public shall be appointed by the General Assembly, as follows:
- a. One member upon the recommendation of the President Pro Tempore of the Senate.
  - b. One member upon the recommendation of the Speaker of the House of Representatives."

**SECTION 45.(c)** If House Bill 1895, 2005 Regular Session, becomes law, then G.S. 58-50-255(a) reads as rewritten:

"(a) The Executive Director, in collaboration with the Board, shall select through a competitive bidding process one or more authorized insurers or a third-party administrator to administer the Pool. The Executive Director shall evaluate bids submitted based on criteria established by the Board. The criteria shall allow for the comparison of information about each bidding administrator and selection of a Pool Administrator based on at least the following:

- (1) Proven ability to handle health insurance coverage to individuals.
- (2) Efficiency and timeliness of the claim processing procedures.
- (3) Estimated total charges for administering the Pool.
- (4) Ability to apply effective cost containment programs and procedures and to administer the Pool in a cost-efficient manner.

(5) Financial condition and stability.

If a member of the Board has submitted a bid to be selected by the Board as Pool Administrator, that bidding member of the Board shall not participate in the selection process or in the Board's final decision on the selection of the Administrator."

**SECTION 45.(d)** If House Bill 1895, 2005 Regular Session, becomes law, then G.S. 58-50-300 reads as rewritten:

**"§ 58-50-300. Audit.**

An audit of the Pool shall be conducted annually under the oversight of the State Auditor. The cost of the audit shall be reimbursed to the State Auditor from the ~~Special~~ Reserve for the North Carolina Health Insurance Risk Pool."

**SECTION 47.** If House Bill 1965, 2005 Regular Session, becomes law, every reference in that act to July 1, 2006, is changed to August 15, 2006.

**SECTION 47.5.** If House Bill 2170, 2005 Regular Session, becomes law, then the lead-in language of Section 2.23 of that act reads as rewritten:

**'SECTION 2.23.** G.S. 105-129.71(a), as enacted by S.L. 2006-40, reads as rewritten:' "

**SECTION 48.(a)** G.S. 163-127.1, as enacted by Section 1 of S.L. 2006-155, reads as rewritten:

**"§ 163-127.1. Definitions.**

As used in this Article, the following terms mean:

- (1) Board. – State Board of Elections.
- (2) Candidate. – A person having filed a notice of candidacy under ~~Article 10 of Chapter 163 of the General Statutes or having filed a petition under Article 11 of Chapter 163 of the General Statutes.~~the appropriate statute for any elective office in this State.
- (3) Challenger. – Any qualified voter registered in the same district as the office for which the candidate has filed or petitioned.
- (4) Office. – The elected office for which the candidate has filed or petitioned."

**SECTION 48.(b)** This section becomes effective on January 1, 2007.

**SECTION 49.** If House Bill 2762, 2005 Regular Session, becomes law, then G.S. 166-5(c1)(26), as enacted by that act, is recodified as G.S. 126-5(c1)(27).

**SECTION 50.(a)** If House Bill 2873, 2005 Regular Session, becomes law then G.S. 87-88(i), as amended by Section 3 of House Bill 2873, reads as rewritten:

"(i) Chlorination of the Well. – Upon completion of the well construction and pump installation, all water-supply wells installed for the purpose of obtaining groundwater for human consumption ~~and all private drinking water wells~~ shall be sterilized in accordance with standards for sterilization of drinking water wells established by the U.S. Public Health Service."

**SECTION 50.(b)** If House Bill 2873, 2005 Regular Session, becomes law, then G.S. 87-97, as enacted by Section 4 of House Bill 2873, is amended by adding a new subsection to read:

"(f1) Chlorination of the Well. – Upon completion of construction of a private drinking water well, the well shall be sterilized in accordance with the standards of drinking water wells established by the United States Public Health Service."

**SECTION 50.(c)** If House Bill 2873, 2005 Regular Session, becomes law, then G.S. 87-97(g), as enacted by Section 4 of House Bill 2873, reads as rewritten:

"(g) Certificate of Completion. – Upon completion of construction of a private drinking water well or repair of a private drinking water well for which a permit is required under this section, the local health department shall inspect the well to determine whether it was constructed or repaired in compliance with the construction permit or repair permit. If the local health department determines that the private drinking water well has been constructed or repaired in accordance with the requirements of the construction permit or repair permit, the construction and repair requirements of this Article, and rules adopted pursuant to this Article, the local health

department shall issue a certificate of completion. No person shall place a private drinking water well into service without first having obtained a certificate of completion. No person shall return a private drinking water well that has undergone repair to service without first having obtained a certificate of completion."

**SECTION 51.** If House Bill 2873, 2005 Regular Session, becomes law, then G.S. 87-97(h), as enacted by Section 4 of House Bill 2873, reads as rewritten:

"(h) Drinking Water Testing. – Within 30 days after it issues a certificate of completion for a newly constructed private drinking water well, the local health department shall test the water obtained from the ~~well~~ well or ensure that the water obtained from the well has been sampled and tested by a certified laboratory in accordance with rules adopted by the Commission for Health Services. The water shall be tested for the following parameters: arsenic, barium, cadmium, chromium, copper, fluoride, lead, iron, magnesium, manganese, mercury, nitrates, nitrites, selenium, silver, sodium, zinc, pH, and bacterial indicators."

**SECTION 52.(a)** If Senate Bill 602, 2005 Regular Session, becomes law, then G.S. 47-14(a), as amended by Section 40(c) of that bill, reads as rewritten:

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

**SECTION 52.(b)** If Senate Bill 602, 2005 Regular Session, becomes law, then Section 40.(d), as enacted in the bill, reads as rewritten:

**"SECTION 40.(d)** Subsection (a) of this section becomes effective October 1, 2006. This ~~The remainder of this section becomes effective October 1, 2005.~~"

**SECTION 53.** If Senate Bill 951 of the 2005 Regular Session becomes law, then G.S. 160A-49.3(a2), as enacted by that act, reads as rewritten:

"(a2) Firms shall ~~fill~~ file notice of provision of solid waste collection service with the city clerk of all cities located in the firm's collection area or within five miles thereof."

**SECTION 54.(a)** If Senate Bill 2009, 2005 Regular Session, becomes law, then G.S. 115C-531(i), as enacted by Senate Bill 2009, reads as rewritten:

"(i) Lien Laws Not Affected. – ~~The provisions of Article 2 of Chapter 44A of the General Statutes apply to any real property, improvement to the real property, and rights that flow with the real property that is subject to a capital lease under this section. Real property that is subject to a capital lease under this section is subject to liens and foreclosure actions in the same manner and to the same extent as if the property were owned in fee simple by a private entity. All laws relating to liens on private property apply to private property interests in a capital lease project undertaken under this section.~~"

**SECTION 54.(b)** If Senate Bill 2009, 2005 Regular Session, becomes law, then G.S. 115C-532(d), as enacted by Senate Bill 2009, reads as rewritten:

"(d) Additional Requirements Regarding Design Services. – All architectural, engineering, and survey services shall be procured in accordance with the provisions of Article 3D of Chapter 143 of the General Statutes. Required design and engineering

services shall be performed by an ~~engineer, to the extent permitted under G.S. 83A-13(b),~~ engineer or a licensed ~~architect.~~ architect, to the extent permitted under G.S. 83A-13(b). Specifications for any new school building shall be consistent with the requirements of G.S. 143-128(a). All applicable requirements for the review or approval of design and specifications for school buildings by the Department of Public Instruction and the Department of Insurance apply to school buildings constructed, repaired, or renovated under a capital lease authorized under this section."

**SECTION 55.** The Enrolling Clerk may file with the Secretary of State a corrected copy of Resolution 2006-10, changing the name "Hernadez" to "Hernandez", and may correct the copies in the legislative database.

**PART III. EFFECTIVE DATE**

**SECTION 56.** Except as otherwise provided, this act is effective when it becomes law.

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

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Beverly E. Perdue  
President of the Senate

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James B. Black  
Speaker of the House of Representatives

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Michael F. Easley  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2006