

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-456
HOUSE BILL 162

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:

Section 1. G.S. 29-12 reads as rewritten:

"§ 29-12. Escheats.

If there is no person entitled to take under G.S. 29-14 or 29-15, or if in case of an illegitimate intestate, there is no one entitled to take under G.S. 29-21 or 29-22 the net estate shall escheat as provided in ~~G.S. 116A-2.~~ G.S. 116B-2."

Section 2. G.S. 32A-14.1 reads as rewritten:

"§ 32A-14.1. Gifts under power of attorney.

(a) Except as provided in subsection (b) of this section, if any power of attorney authorizes an attorney-in-fact to do, execute, or perform any act that the principal might or could do or evidences the principal's intent to give the attorney-in-fact full power to handle the principal's affairs or deal with the principal's property, the attorney-in-fact shall have the power and authority to make gifts in any amount of any of the principal's property to any individual or to any organization described in sections 170(c) and ~~2422(a)~~-2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax law, or both, in accordance with the principal's personal history of making or joining in the making of lifetime gifts. As used in this subsection, "Internal Revenue Code" means the "Code" as defined in G.S. 105-2.1.

(b) Except as provided in subsection (c) of this section, or unless gifts are expressly authorized by the power of attorney, a power described in subsection (a) of this section may not be exercised by the attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or the creditors of the estate of the attorney-in-fact.

(c) If the power of attorney described in subsection (a) of this section is conferred upon two or more attorneys-in-fact, it may be exercised by the attorney-in-fact or attorneys-in-fact who are not disqualified by subsection (b) of this section from exercising the power of appointment as if they were the only attorney-in-fact or attorneys-in-fact. If the power of attorney described in subsection (a) of this section is conferred upon one attorney-in-fact, the power of attorney may be exercised by the attorney-in-fact in favor of the attorney-in-fact or the estate, creditors, or the creditors of

the estate of the attorney-in-fact pursuant to an order issued by the clerk in accordance with the procedures and provisions of Article 2B of this Chapter.

(d) Subsection (a) of this section shall not in any way impair the right, power, or ability of any principal, by express terms in the power of attorney, to authorize or limit the authority of any attorney-in-fact to make gifts of the principal's property.

(e) An attorney-in-fact expressly authorized by this section to make gifts of the principal's property may elect to request that the clerk of the superior court issue an order approving a gift or gifts of the property of the principal.

(f) This section shall apply to all powers of attorney executed prior to, on, or after ~~the effective date of this section. October 1, 1995.~~"

Section 3. G.S. 55-1-40(9) reads as rewritten:

"(9) 'Entity' includes (without limiting the meaning of such term in Article 9) corporation and foreign corporation; nonprofit corporation; professional corporation; limited liability company; profit and nonprofit unincorporated association; business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign government."

Section 4. G.S. 122C-57(d) through (f) read as rewritten:

"(d) Each voluntarily admitted client, the client's legally responsible person, or a health care agent named pursuant to a valid health care power of ~~attorney, attorney~~ has the right to consent to or refuse any treatment offered by the facility. Consent may be withdrawn at any time by the person who gave the consent. If treatment is refused, the qualified professional shall determine whether treatment in some other modality is possible. If all appropriate treatment modalities are refused, the voluntarily admitted client may be discharged. In an emergency, a voluntarily admitted client may be administered treatment or medication, other than those specified in subsection (f) of this section, despite the refusal of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's refusal expressed in a valid advance instruction for mental health treatment. The Commission may adopt rules to provide a procedure to be followed when a voluntarily admitted client refuses treatment.

(d1) Except as provided in G.S. 90-21.4, discharge of a voluntarily admitted minor from treatment shall include notice to and consultation with the minor's legally responsible person and in no event shall a minor be discharged from treatment upon the minor's request alone.

(e) In the case of an involuntarily committed client, treatment measures other than those requiring express written consent as specified in subsection (f) of this section may be given despite the refusal of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's refusal expressed in a valid ~~advanced~~ advance instruction for mental health treatment ~~or an attorney-in-fact named pursuant to a valid instruction for mental health treatment~~ in the event of an emergency or when consideration of side effects related to the specific treatment measure is given and in the professional judgment, as documented in the

client's record, of the treating physician and a second physician, who is either the director of clinical services of the facility, or the director's designee, either:

- (1) The client, without the benefit of the specific treatment measure, is incapable of participating in any available treatment plan which will give the client a realistic opportunity of improving the client's condition;
- (2) There is, without the benefit of the specific treatment measure, a significant possibility that the client will harm self or others before improvement of the client's condition is realized.

(f) Treatment involving electroshock therapy, the use of experimental drugs or procedures, or surgery other than emergency surgery may not be given without the express and informed written consent of the client, the client's legally responsible person, a health care agent named pursuant to a valid health care power of attorney, or the client's consent expressed in a valid ~~advanced~~ advance instruction ~~or for~~ for mental health treatment. This consent may be withdrawn at any time by the person who gave the consent. The Commission may adopt rules specifying other therapeutic and diagnostic procedures that require the express and informed written consent of the client, the client's legally responsible person, or a health care agent named pursuant to a valid health care power of attorney, or an attorney in fact named pursuant to a valid advance instruction for mental health treatment prior to their initiation. ~~attorney.~~"

Section 5. G.S. 122C-211(f1) reads as rewritten:

"(f1) An individual in need of treatment for mental illness may be admitted to a facility pursuant to an advance instruction for mental health treatment or pursuant to the authority of a health care agent named in a valid health care power of attorney, provided that the individual is incapable, as defined in ~~G.S. 122C-72(e)~~ G.S. 122C-72(4) at the time of the need for admission. An individual admitted to a facility pursuant to an advance instruction for mental health treatment may not be retained for more than 10 days, except as provided for in subsection (b) of this section. When a health care power of attorney authorizes a health care agent to seek the admission of an incapable individual, the health care agent shall act for the individual in applying for admission to a facility and in consenting to medical treatment at the facility when consent is required, provided that the individual is incapable."

Section 6. G.S. 131E-23(a)(20) reads as rewritten:

"(20) ~~Subject to subsection (e), to~~ To lease any hospital facilities to or from any municipality, other public agency of this or any other state or of the United States, or to any individual, corporation, or association upon any terms and subject to any conditions as may carry out the purposes of this Part. ~~Subject to subsection (e), the~~ The authority may provide for the lessee to use, operate, manage and control the hospital facilities, and to exercise designated powers, in the same manner as the authority itself might do;"

Section 7. G.S. 143-56 reads as rewritten:

"§ 143-56. Certain purchases excepted from provisions of Article.

Unless as may otherwise be ordered by the Secretary of Administration, the purchase of supplies, materials and equipment through the Secretary of Administration shall be mandatory in the following cases:

- (1) Published books, manuscripts, maps, pamphlets and periodicals.
- (2) Perishable articles such as fresh vegetables, fresh fish, fresh meat, eggs, and others as may be classified by the Secretary of Administration.

Purchase through the Secretary of Administration shall not be mandatory for a purchase of supplies, materials or equipment for the General Assembly if the total expenditures is less than the expenditure benchmark established under the provisions of G.S. 143-53.1, for group purchases made by hospitals through a competitive bidding purchasing program, as defined in ~~G.S. 143-29~~, G.S. 143-129, by the University of North Carolina Health Care System pursuant to G.S. 116-37(h), by the University of North Carolina Hospitals at Chapel Hill pursuant to G.S. 116-37(a)(4), by the University of North Carolina at Chapel Hill on behalf of the clinical patient care programs of the School of Medicine of the University of North Carolina at Chapel Hill pursuant to G.S. 116-37(a)(4), or by East Carolina University on behalf of the Medical Faculty Practice Plan pursuant to G.S. 116-40.6(c).

All purchases of the above articles made directly by the departments, institutions and agencies of the State government shall, whenever possible, be based on competitive bids. Whenever an order is placed or contract awarded for such articles by any of the departments, institutions and agencies of the State government, a copy of such order or contract shall be forwarded to the Secretary of Administration and a record of the competitive bids upon which it was based shall be retained for inspection and review."

Section 8. Effective December 1, 1999, G.S. 1-539.2A(b), as enacted by Section 4 of S.L. 1999-212, reads as rewritten:

"(b) A civil action under this section shall be commenced before expiration of the time period prescribed in G.S. 1-54. In actions alleging injury arising from the transmission of unsolicited bulk commercial electronic mail, personal jurisdiction may be exercised pursuant to G.S. ~~1-75.4(13)~~. 1-75.4."

Section 9.(a) The prefatory language of Section 4 of Senate Bill 974, 1999 Regular Session, is rewritten to read:

"Section 4. G.S. 7A-292 reads as rewritten:"

Section 9.(b) If Senate Bill 974, 1999 Regular Session, becomes law, then effective January 1, 2000, G.S. 7A-292, as rewritten by Section 4 of Senate Bill 974, 1999 Regular Session, reads as rewritten:

"§ 7A-292. Additional powers of magistrates.

In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil and criminal actions, each magistrate has the following additional powers:

- (1) To administer oaths;
- (2) To punish for direct criminal contempt subject to the limitations contained in Chapter 5A of the General Statutes of North Carolina;
- (3) When authorized by the chief district judge, to take depositions and examinations before trial;

- (4) To issue subpoenas and capiases valid throughout the county;
- (5) To take affidavits for the verification of pleadings;
- (6) To issue writs of habeas corpus ad testificandum, as provided in G.S. 17-41;
- (7) To assign a year's allowance to the surviving spouse and a child's allowance to the children as provided in Chapter 30, Article 4, of the General Statutes;
- (8) To take acknowledgments of instruments, as provided in G.S. 47-1;
- (9) To perform the marriage ceremony, as provided in G.S. 51-1;
- (10) To take acknowledgment of a written contract or separation agreement between husband and wife; and
- (11) Repealed by Session Laws 1973, c. 503, s. 9.
- (12) To assess contribution for damages or for work done on a dam, canal, or ditch, as provided in G.S. 156-15.
- (13) Repealed by Session Laws 1973, c. 503, s. 9.
- (14) ~~If the office the clerk of superior court is closed, to accept the filing of a complaint and to issue a summons in cases for expedited eviction proceedings under Article 4 of Chapter 42A of the General Statutes.~~
To accept the filing of complaints and to issue summons pursuant to Article 4 of Chapter 42A of the General Statutes in expedited eviction proceedings when the office of the clerk of superior court is closed."

Section 10. G.S. 18B-603(d) reads as rewritten:

"(d) Mixed Beverage Elections. – If a mixed beverage election is held under G.S. 18B-602(h) and the sale of mixed beverages is approved, the Commission may issue permits to qualified persons and establishments in the jurisdiction that held the election as follows:

- (1) The Commission may issue mixed beverage permits.
- (2) The Commission may issue on-premises malt beverage, unfortified wine, and fortified wine permits for establishments with mixed beverage permits, regardless of any other election or any local act concerning sales of those kinds of alcoholic beverages.
- (3) The Commission may issue off-premises malt beverage permits to any establishment that meets the requirements under G.S. 18B-1001(2) in any township which has voted to permit the sale of mixed beverages, regardless of any other local act concerning sales of those kinds of alcoholic beverages. The Commission may also issue off-premises unfortified wine permits to any establishment that meets the requirements under G.S. 18B-1001(4) in any township which has voted to permit the sale of mixed beverages, regardless of any other local act concerning sales of those kinds of alcoholic beverages.
- (4) The Commission may issue brown-bagging permits for private clubs and congressionally chartered veterans organizations but may no longer issue and may not renew brown-bagging permits for restaurants, hotels, and community theatres. A restaurant, hotel, or

community theatre may not be issued a mixed beverage permit under subdivision (1) until it surrenders its brown-bagging permit.

- (5) The Commission may continue to issue culinary permits for establishments that do not have mixed beverage permits. An establishment may not be issued a mixed beverage permit under subdivision (1) until it surrenders its culinary permit.

In any county in which the sale of mixed beverages has been approved in elections in at least three cities that, combined, contain more than two-thirds the total county population as of the most recent federal census, the county board of commissioners may by resolution approve the sale of mixed beverages throughout the county, and the Commission may issue permits as if mixed beverages had been approved in a county election.

If a county or city holds a mixed beverage election and an ABC store election at the same time and the voters do not approve the establishment of an ABC store, the Commission may ~~not~~ issue mixed beverage permits in that county or city. The mixed beverages purchase-transportation permit authorized by G.S. 18B-404(b) shall be issued by a local board operating a store located in the county."

Section 11. G.S. 20-28.5(a) reads as rewritten:

"(a) Sale. – A motor vehicle ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by the records of the Division. ~~Division and at any other address of the motor vehicle owner as may be found in the criminal file in which the forfeiture was ordered.~~ Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf."

Section 12. G.S. 47-108.11 reads as rewritten:

"§ 47-108.11. Validation of recorded instruments where seals have been omitted.

In all cases of any deed, deed of trust, mortgage, lien or other instrument authorized or required to be registered in the office of the register of deeds of any county in this State where it appears of record or it appears that from said instrument, as recorded in the office of the register of deeds of any county in the State, there has been omitted from

said recorded or registered instrument the word "seal," "notarial seal" and that any of said recorded or registered instruments shows or recites that the grantor or grantors "have hereunto fixed or set their hands and seals" and the signature of the grantor or grantors appears without a seal thereafter or on the recorded or registered instrument or in all cases where it appears there is an attesting clause which recites "signed, sealed and delivered in the presence of," and the signature of the grantor or grantors appears on the recorded or registered instrument without any seal appearing thereafter or of record, then all such deeds, mortgages, deeds of trust, liens or other instruments, and the registration of same in the office of the register of deeds, are hereby declared to be in all respects valid and binding and are hereby made in all respects valid and binding to the same extent as if the word "seal" or "notarial seal" had not been omitted, and the registration and recording of such instruments in the office of the register of deeds in any county in this State are hereby declared to be valid, proper, legal and binding registrations.

This section shall not apply in any respect to any instrument recorded or registered subsequent to ~~January 1, 1995~~ January 1, 1999, or to pending litigation or to any such instruments now directly or indirectly involved in pending litigation."

Section 13. G.S. 50-13.4(f)(7) reads as rewritten:

"(7) A minor child or other person for whose benefit an order for the payment of child support has been entered shall be a creditor within the meaning of Article ~~3-3A~~ of Chapter 39 of the General Statutes pertaining to fraudulent conveyances."

Section 14. G.S. 50-16.7(h) reads as rewritten:

"(h) A dependent spouse for whose benefit an order for the payment of alimony or postseparation support has been entered shall be a creditor within the meaning of Article ~~3-3A~~ of Chapter 39 of the General Statutes pertaining to fraudulent conveyances."

Section 15.(a) The catchline of G.S. 58-3-176, as enacted by S.L. 1999-231, reads as rewritten:

~~"§ 58-3-176. § 58-3-178. Coverage for prescription contraceptive drugs or devices and for outpatient contraceptive services; exemption for religious employers."~~

Section 15.(b) Section 2 of S.L. 1999-231 is repealed.

Section 15.(c) The prefatory language of Section 2.1 of S.L. 1999-231 reads as rewritten:

"Section 2.1. ~~If House Bill 314, 1999 Regular Session, becomes law, then Section 2 of this act is repealed and effective~~ Effective January 1, 2000, G.S. 58-50-155(a) as rewritten by Section 2 of House Bill 314, 1999 Regular Session S.L. 1999-197 is amended by adding a new subdivision to read:"

Section 15.(d) G.S. 58-50-155(a)(5), as enacted by Section 2.1 of S.L. 1999-231, reads as rewritten:

"(5) Prescribed contraceptive drugs or devices that prevent pregnancy and that are approved by the United States Food and Drug Administration for use as contraceptives, or outpatient contraceptive services at least equal to the coverage required by G.S. ~~58-3-174, 58-3-178~~, if the plan

covers prescription drugs or devices, or outpatient services, as applicable. The same exceptions and exclusions as are provided under G.S. ~~58-3-174~~58-3-178 apply to standard plans developed and approved under G.S. 58-50-125."

Section 16. If ratified Senate Bill 594 becomes law, then G.S. 58-3-167(b), as enacted by Section 5 of that act, reads as rewritten:

"(b) Whenever a law is enacted by the General Assembly on or after the effective date of this section that applies to a health benefit plan, the term 'health benefit plan' shall be defined for purposes of that law as provided in subsection (a) of this section unless that law provides a different definition or otherwise expressly provides that the definition in this section is not applicable."

Section 17. G.S. 62-159(a) reads as rewritten:

"(a) In order to facilitate the construction of facilities in and the extension of natural gas service to unserved areas, the Commission may provide funding through appropriations from the General Assembly or the proceeds of general obligation bonds as provided in this section to either (i) an existing natural gas local distribution ~~company~~ or (ii) a person or a gas district awarded a new franchise company; (ii) a person awarded a new franchise; or (iii) a gas district for the construction of natural gas facilities that it otherwise would not be economically feasible for the company, person, or gas district to construct."

Section 18. G.S. 62A-25(d) reads as rewritten:

"(d) In no event shall any invoice for reimbursement be approved for payment of costs of any CMRS provider exceeding one hundred twenty-five percent (125%) of the service charges remitted by such CMRS provider unless prior approval for such expenditures is received from the Board. If the total amount of invoices submitted to the Board and approved for payment exceeds the amount in the Wireless Fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the Wireless Fund, based on the relative amount of their approved invoices available that month, and the balance of the payments will be carried over to the following month or months and shall include interest at ~~the rate set out in G.S. 24-1~~ a rate equal to the rate earned by the Wireless Fund until all of the approved payments are made."

Section 19. G.S. 74C-5 reads as rewritten:

"§ 74C-5. Powers of the Board.

In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to:

- (1) Promulgate rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter;
- (2) Determine minimum qualifications, establish and require written or oral examinations, and establish minimum education, experience, and training standards for applicants and licensees under this Chapter;

- (3) Conduct investigations regarding alleged violations and to make evaluations as may be necessary to determine if licensees and trainees under this Chapter are complying with the provisions of this Chapter;
- (4) Adopt and amend bylaws, consistent with law, for its internal management and control;
- (5) Approve individual applicants to be licensed or registered according to this Chapter;
- (6) Deny, suspend, or revoke any license or trainee permit issued or to be issued under this Chapter to any applicant, licensee, or permit holder who fails to satisfy the requirements of this Chapter or the rules established by the Board. The denial, suspension, or revocation shall be in accordance with Chapter 150B of the General Statutes of North Carolina;
- (7) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. ~~[Chapter]~~ Chapter 5A, Article 2, for acts occurring in matters pending before the Private Protective Services Board which would constitute civil contempt if the acts occurred in an action pending in court; ~~and~~
- (8) Repealed by Session Laws 1989, c. 759, s. 5.
- (9) Establish rules governing detection of deception schools, and charge fees for reimbursement of costs incurred pursuant to approval of such ~~schools. schools; and~~
- (10) Contract for services as necessary to carry out the functions of the Board."

Section 20. G.S. 74C-6 reads as rewritten:

"§ 74C-6. Position of Administrator created.

The position of Administrator of the Private Protective Services Board is hereby created within the ~~State Bureau of Investigation. Department of Justice.~~ The Attorney General shall appoint a person to fill this full-time position. The Administrator's duties shall be to administer the directives contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to carry out the administrative duties incident to the functioning of the Board in order to actively police the private protective services industry to ensure compliance with the law in all aspects."

Section 21. G.S. 74D-5(a) reads as rewritten:

"(a) In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to:

- (1) Promulgate rules necessary to carry out and administer the provisions of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter;
- (2) Determine minimum qualifications and establish minimum education, experience, and training standards for applicants and licensees under this Chapter;

- (3) Conduct investigations regarding alleged violations and make evaluations as may be necessary to determine if licensees and registrants under this Chapter are complying with the provisions of this Chapter;
- (4) Adopt and amend bylaws, consistent with law, for its internal management and control;
- (5) Investigate and approve individual applicants to be licensed or registered according this Chapter;
- (6) Deny, suspend, or revoke any license issued or to be issued under this Chapter to any applicant or licensee who fails to satisfy the requirements of this Chapter or the rules established by the Board. The denial, suspension, or revocation of such license shall be in accordance with Chapter 150B of this General Statutes of North Carolina;
- (7) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The district court shall have the power to impose punishment pursuant to G.S. 5A-21 et seq. for acts occurring in matters pending before the Board which would constitute civil contempt if the acts occurred in an action pending in ~~court.~~ court; and
- (8) Contract for services as necessary to carry out the functions of the Board."

Section 22. G.S. 74D-5.1 reads as rewritten:

"§ 74D-5.1. Position of Administrator created.

The position of Administrator of the Alarm Systems Licensing Board is hereby created within the ~~State Bureau of Investigation.~~ Department of Justice. The Attorney General shall appoint a person to fill this full-time position. The Administrator's duties shall be to administer the directives contained in this Chapter and the rules promulgated by the Board to implement this Chapter and to carry out the administrative duties incident to the functioning of the Board in order to actively police the alarm systems industry to insure compliance with the law in all aspects. The Administrator may issue a temporary grant or denial of a request for registration subject to final action by the Board at its next regularly scheduled meeting."

Section 23. Effective October 1, 1999, G.S. 85B-3.1(a), as enacted by Section 2 of S.L. 1999-142, reads as rewritten:

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

- (1) To receive and act upon applications for licenses.
- (2) To issue licenses.
- (3) To deny, suspend, and revoke licenses pursuant to G.S. 85B-8.
- (3) ~~To adopt rules for auctioneers and auctions that are consistent with the provisions of this Chapter and the General Statutes.~~
- (4) To issue declaratory rulings.
- (5) To adopt rules for auctioneers and auctions that are consistent with the provisions of this Chapter and the General Statutes."

Section 24. G.S. 90-113.31, as rewritten by Section 1 of S.L. 1999-164, reads as rewritten:

"§ 90-113.31. Definitions.

The following definitions shall apply in this Article:

- (1) Board. – The North Carolina Substance Abuse Professional Certification Board.
- (1a) Certified clinical addictions specialist. – A person certified by the Board to practice as a clinical addictions specialist in accordance with the provisions of this Article.
- (1b) Certified clinical supervisor. – A person certified by the Board to practice as a clinical supervisor in accordance with the provisions of this Article.
- (1c) Certified residential facility director. – A person certified by the Board to practice as a residential facility director in accordance with the provisions of this Article.
- (2) Certified substance abuse counselor. – A person certified by the Board to practice as a substance abuse counselor in accordance with the provisions of this Article.
- (3) Repealed by S.L. 1997-492, s. 2.
- ~~(4)~~(3a) Certified substance abuse prevention consultant. – A person certified by the Board to practice substance abuse prevention in accordance with the provisions of this Article.
- (4) Clinical supervisor intern. – A person designated by the Board to practice as a clinical supervisor intern for a period not to exceed three years without a showing of good cause in accordance with the provisions of this Article.
- (4a) Credentialing body. – A board that licenses, certifies, or regulates a profession or practice.
- (4b) Deemed status. – Recognition by the Board of the credentials offered by a professional discipline whereby the individuals certified, licensed, or otherwise recognized by the discipline as having met the standards of a substance abuse specialist may apply individually for certification as a certified clinical addictions specialist.
- (4c) Human services field. – An area of study that focuses on the biological, psychological, and social aspects of human beings.
- (5) Prevention. – The reduction, delay, or avoidance of alcohol and of other drug use behavior. "Prevention" includes the promotion of positive environments and individual strengths that contribute to personal health and well-being over an entire life and the development of strategies that encourage individuals, families, and communities to take part in assessing and changing their lifestyle and environments.
- (6) Professional discipline. – A field of study characterized by the technical, educational, and ethical standards of a profession.

- (7) Substance abuse counseling. – The assessment, evaluation, and provision of counseling to persons suffering from substance, drug, or alcohol abuse or dependency.
- (7a) Substance abuse counselor intern. – A person who successfully completes 300 hours of Board approved supervised practical training and a written examination in pursuit of certification as a substance abuse counselor.
- (8) Substance abuse professional. – A certified substance abuse counselor, certified substance abuse prevention consultant, certified clinical supervisor, certified clinical addictions specialist, or certified residential facility director."

Section 25. Effective July 1, 2000, Article 9G of Chapter 90 of the General Statutes, as enacted by S.L. 1999-245, is amended by adding a new section to read:

"§ 90-171.94. Applicability of compact.

This Article is applicable only to nurses whose home states are determined by the North Carolina Board of Nursing to have licensure requirements that are substantially equivalent or more stringent than those of North Carolina."

Section 26. If Senate Bill 55, 1999 Regular Session, becomes law, then the catchline of G.S. 105-37.1, as amended by Senate Bill 55, reads as rewritten:

"§ 105-37.1. (~~Effective July 1, 1999~~) Dances, athletic events, shows, exhibitions, and other entertainments."

Section 27. G.S. 113-270.1A(d) reads as rewritten:

"(d) Nothing in this section shall be construed to prohibit the sale of lifetime licenses as provided in ~~G.S. 113-270.2(e)(1a)~~. ~~G.S. 113-270.1D(b)~~ or ~~G.S. 113-270.2(c)(2)~~. Pending satisfactory completion of the hunter safety course, persons who possess such licenses may exercise the privileges thereof when accompanied by an adult at least 21 years of age who is licensed to hunt in this State. For the purpose of this section, "accompanied" is defined as being able to take immediate control of the hunting device."

Section 28. G.S. 113-271(a) reads as rewritten:

"(a) All the hook-and-line fishing licenses set forth in ~~subsection (b) of this section entitle the holder to fish with hook and line in the inland and joint waters of the State, but not in public mountain trout waters. The licenses set forth in~~ subdivisions (1), (3), (7), and (9) of subsection (d) of this section ~~further~~ entitle the holder to fish with hook and line in public mountain trout waters."

Section 29. G.S. 113-276(e) reads as rewritten:

"(e) A resident individual fishing with hook and line in the county of his residence using natural bait is exempt from the hook-and-line fishing-license requirements of ~~G.S. 113-271~~. G.S. 113-270.1B(a). "Natural bait" is bait which may be beneficially digested by fish. Where a municipality is bounded by a boundary river or stream, residents of the county in which the municipality is located may fish in the boundary river or stream from those banks of such river or stream in any adjoining county lying directly opposite to the banks of the municipality in question and be deemed fishing within their county for the purposes of the exemption contained in this subsection. The same is deemed true

of fishing from the banks of any island in the boundary river or stream within the area opposite the banks of the municipality or municipalities. For the purposes of this section, a boundary river or stream is such portion of a river or stream which either forms a county boundary line or follows the course of such a line. Such line may follow the middle, thread, some former channel, the edge, or some other course in, along, under, or touching the waters of such river or stream so long as the course of the river or stream substantially represents or follows the course of such boundary line."

Section 30. G.S. 113-276(j) reads as rewritten:

"(j) A migrant farm worker who has in his possession a temporary certification of his status as such by the Rural Employment Service of the North Carolina Employment Security Commission on a form provided by the Wildlife Resources Commission is entitled to the privileges of a resident of the State and of the county indicated on such certification during the term thereof for the purposes of:

- (1) Purchasing and using the resident fishing licenses provided by ~~G.S. 113-271(d)(2a), (3), and (4);~~ G.S. 113-271(d)(2), (4), and (6)a.; and
- (2) Utilizing the natural-bait exemption in subsection (e) above."

Section 31. G.S. 113-276.2(a) reads as rewritten:

"(a) This section applies to the administrative control of:

- (1) Persons, other than individual hunters and fishermen taking wildlife as sportsmen, holding permits under this Article;
- (2) Individuals holding special device licenses under ~~G.S. 113-272.2(e)(1) and (2);~~ G.S. 113-272.2(c)(1), (1a), (2), and (2a);
- (3) Individuals holding collection licenses under G.S. 113-272.4;
- (4) Individuals holding captivity licenses under G.S. 113-272.5; and
- (5) Persons holding dealer licenses under G.S. 113-273."

Section 32. G.S. 113-291.4A(a) reads as rewritten:

"(a) There is an open season for the taking of foxes with firearms in all areas of the State east of Interstate Highway 77 and in Mitchell and Caldwell Counties from the beginning of the season established by the Wildlife Resources Commission for the taking of rabbits and quail through January 1 of each year. The selling, buying, or possessing for sale of any fox or fox part taken pursuant to this subsection is prohibited, and is punishable as provided by ~~G.S. 113-294(a) or (k).~~ G.S. 113-294(a) or (j)."

Section 33.(a) G.S. 14-34.3(b)(1) reads as rewritten:

- ...
- "(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 or weapons, civil officers of the United States while in the discharge of their official duties, officers and soldiers of the militia ~~and the State guard~~ when called into actual service, officers of the State, or of any county, city or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties;"

Section 33.(b) G.S. 14-409(b) reads as rewritten:

"(b) It shall be unlawful for any person, firm or corporation to manufacture, sell, give away, dispose of, use or possess machine guns, submachine guns, or other like weapons as defined by subsection (a) of this section: Provided, however, that this subsection shall not apply to the following:

Banks, merchants, and recognized business establishments for use in their respective places of business, who shall first apply to and receive from the sheriff of the county in which said business is located, a permit to possess the said weapons for the purpose of defending the said business; officers and soldiers of the United States Army, when in discharge of their official duties, officers and soldiers of the militia ~~and the State guard~~ when called into actual service, officers of the State, or of any county, city or town, charged with the execution of the laws of the State, when acting in the discharge of their official duties; the manufacture, use or possession of such weapons for scientific or experimental purposes when such manufacture, use or possession is lawful under federal laws and the weapon is registered with a federal agency, and when a permit to manufacture, use or possess the weapon is issued by the sheriff of the county in which the weapon is located. Provided, further, that any bona fide resident of this State who now owns a machine gun used in former wars, as a relic or souvenir, may retain and keep same as his or her property without violating the provisions of this section upon his reporting said ownership to the sheriff of the county in which said person lives."

Section 33.(c) G.S. 97-2(2), as rewritten by Section 1 of Senate Bill 877, 1999 Regular Session, reads as rewritten:

- ...
- "(2) Employee. – The term 'employee' means every person engaged in an employment under any appointment or contract of hire or apprenticeship, express or implied, oral or written, including aliens, and also minors, whether lawfully or unlawfully employed, but excluding persons whose employment is both casual and not in the course of the trade, business, profession or occupation of his employer, and as relating to those so employed by the State, the term 'employee' shall include all officers and employees of the State, including such as are elected by the people, or by the General Assembly, or appointed by the Governor to serve on a per diem, part-time or fee basis, either with or without the confirmation of the Senate; as relating to municipal corporations and political subdivisions of the State, the term 'employee' shall include all officers and employees thereof, including such as are elected by the people. The term 'employee' shall include members of the North Carolina national guard while on State active duty under orders of the Governor and members of the North Carolina State ~~guard~~ Defense Militia while on State active duty under orders of the Governor. The term 'employee' shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy

sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment, and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also his legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee as herein defined of a municipality, county, or of the State of North Carolina while engaged in the discharge of his official duty outside the jurisdictional or territorial limits of the municipality, county, or the State of North Carolina and while acting pursuant to authorization or instruction from any superior officer, shall have the same rights under this Article as if such duty or activity were performed within the territorial boundary limits of his employer.

Every executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation shall be considered as an employee of such corporation under this Article.

Any such executive officer of a corporation may, notwithstanding any other provision of this Article, be exempt from the coverage of the corporation's insurance contract by such corporation specifically excluding such executive officer in such contract of insurance and the exclusion to remove such executive officer from the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus exempted from the coverage of the insurance contract shall not be employees of such corporation under this Article.

All county agricultural extension service employees who do not receive official federal appointments as employees of the United States Department of Agriculture and who are field faculty members with professional rank as designated in the memorandum of understanding between the North Carolina Agricultural Extension Service, North Carolina State University, A & T State University and the boards of county commissioners shall be deemed to be employees of the State of North Carolina. All other county agricultural extension service employees paid from State or county funds shall be deemed to be employees of the county board of commissioners in the county in which the employee is employed for purposes of workers' compensation.

The term employee shall also include members of the Civil Air Patrol currently certified pursuant to G.S. 143B-491(a) when performing duties in the course and scope of a State approved mission pursuant to Article 11 of Chapter 143B.

Employee shall not include any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities or any combination thereof.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he is actively engaged in the operation of the business and if the insurer is notified of his election to be so included. Any such sole proprietor or partner or member of a limited liability company shall, upon such election, be entitled to employee benefits and be subject to employee responsibilities prescribed in this Article."

Section 33.(d) G.S. 97-29 reads as rewritten:

"§ 97-29. Compensation rates for total incapacity.

Except as hereinafter otherwise provided, where the incapacity for work resulting from the injury is total, the employer shall pay or cause to be paid, as hereinafter provided, to the injured employee during such total disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of his average weekly wages, but not more than the amount established annually to be effective October 1 as provided herein, nor less than thirty dollars (\$30.00) per week.

In cases of total and permanent disability, compensation, including medical compensation, shall be paid for by the employer during the lifetime of the injured employee. If death results from the injury then the employer shall pay compensation in accordance with the provisions of G.S. 97-38.

The weekly compensation payment for members of the North Carolina national guard and the North Carolina State Defense Militia guard shall be the maximum amount established annually in accordance with the last paragraph of this section per week as fixed herein. The weekly compensation payment for deputy sheriffs, or those acting in the capacity of deputy sheriffs, who serve upon a fee basis, shall be thirty dollars (\$30.00) a week as fixed herein.

An officer or member of the State Highway Patrol shall not be awarded any weekly compensation under the provisions of this section for the first two years of any incapacity resulting from an injury by accident arising out of and in the course of the performance by him of his official duties if, during such incapacity, he continues to be an officer or member of the State Highway Patrol, but he shall be awarded any other benefits to which he may be entitled under the provisions of this Article.

Notwithstanding any other provision of this Article, on July 1 of each year, a maximum weekly benefit amount shall be computed. The amount of this maximum weekly benefit shall be derived by obtaining the average weekly insured wage in accordance with G.S. 96-8(22), by multiplying such average weekly insured wage by 1.10, and by rounding such figure to its nearest multiple of two dollars (\$2.00), and this said maximum weekly benefit shall be applicable to all injuries and claims arising on and after January 1 following such computation. Such maximum weekly benefit shall

apply to all provisions of this Chapter and shall be adjusted July 1 and effective January 1 of each year as herein provided."

Section 33.(e) G.S. 115C-254 reads as rewritten:

"§ 115C-254. Use of school buses by State ~~guard~~militia or national guard.

When requested to do so by the Governor, the board of education of any local school administrative unit is authorized and directed to furnish a sufficient number of school buses to the North Carolina State ~~guard~~Defense Militia or the national guard for the purpose of transporting members of the State ~~guard~~militia or members of the national guard to and from authorized places of encampment, or to and from places to which members of the State ~~guard~~militia or members of the national guard are ordered to proceed for the purpose of suppressing riots or insurrections, repelling invasions or dealing with any other emergency. Public school buses so furnished by any local school administrative unit to the North Carolina State ~~guard~~Defense Militia or the national guard shall be operated by members or employees of the State militia or national guard, and all expense of such operation, including any repair or replacement of any bus occasioned by such operation, shall be paid by the State from the appropriations available for the use of the State ~~guard~~militia or the national guard."

Section 33.(f) G.S. 147-33.2(8)d. reads as rewritten:

...

"d. Whenever it should be certified by the Adjutant General of the State that emergency conditions require such procedure, the Governor, with the approval of the Council of State, shall have the power to call up and mobilize State ~~militia in addition to the existing units of the State guard;~~ militia; to provide transportation and facilities for mobilization and full utilization of the State ~~guard, or other units of militia,~~ in such emergency; and to allocate from the Contingency and Emergency Fund such amounts as may be necessary for such purposes during the period of such emergency;"

Section 34. G.S. 115C-325(c) is amended by adding a new subdivision to read:

...

"(5) Consecutive Years of Service. – If a probationary teacher in a full-time permanent position does not work for at least 120 workdays in a school year because the teacher is on sick leave, disability leave, or both, that school year shall not be deemed to constitute (i) a consecutive year of service for the teacher or (ii) a break in the continuity in consecutive years of service for the teacher."

Section 35. Effective July 1, 2000, G.S. 115C-47(32a), as rewritten by S.L. 1999-237, reads as rewritten:

"§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

...

(32a) To Establish Alternative Learning Programs and Develop Policies and Guidelines. – Each local board of education shall establish at least one alternative learning ~~programs~~ program and shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services to be provided, (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision, and (iii) strategies for providing alternative learning programs, when feasible and appropriate, for students who are subject to long-term suspension or expulsion. In developing these guidelines, local boards shall consider the State Board's policies and guidelines developed under G.S. 115C-12(24). Upon adoption of policies and guidelines under this subdivision, local boards are encouraged to incorporate them in their safe school plans developed under G.S. 115C-105.47.

The General Assembly urges local boards to adopt policies that prohibit superintendents from assigning to any alternative learning program any professional public school employee who has received within the last three years a rating on a formal evaluation that is less than above standard."

Section 36. G.S. 122C-251(h), as rewritten by S.L. 1999-201, reads as rewritten:

"(h) The cost and expenses of transporting a respondent to or from a 24-hour facility is the responsibility of the county of residence of the respondent. The State (when providing transportation under G.S. 122C-408(b)), a city, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the respondent. The county of residence of the respondent shall reimburse the State, another county, or a city the reasonable transportation costs incurred as authorized by this subsection. The county of residence of the respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a city, or a county. Provided that the county of residence provides the respondent or other individual liable for the respondent's support ~~is provided~~—a reasonable notice and opportunity to object to the ~~reimbursement. The reimbursement, the~~ county of residence of the respondent may recover that cost from:

- (1) The respondent, if the respondent is not indigent;
- (2) Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
- (3) Any person or entity that is contractually responsible for the cost; or
- (4) Any person or entity that otherwise is liable under federal, State, or local law for the cost."

Section 37. G.S. 128-21(11), as rewritten by Section 2 of S.L. 1999-167, reads as rewritten:

"(11) "Employer" shall mean any county, incorporated city or town, the board of alcoholic control of any county or incorporated city or town,

the North Carolina League of Municipalities, and the State Association of County Commissioners. "Employer" shall also mean any separate, juristic political subdivision of the State as may be approved by the Board of Trustees upon the advice of the Attorney General. "Employer" also means any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds."

Section 38. G.S. 146-32, as amended by S.L. 1999-252, reads as rewritten:

"§ 146-32. Exemptions as to leases, etc.

The Governor, acting with the approval of the Council of State, may adopt rules and ~~regulations.~~ regulations:

- (1) Exempting from any or all of the requirements of this Subchapter such classes of lease, rental, easement, and right-of-way transactions as he deems advisable; and
- (2) Authorizing any State agency to enter into and/or approve those classes of transactions exempted by such rules and regulations from the requirements of this Chapter.
- (3) No rule or regulation adopted under this section may exempt from the provisions of G.S. 146-25.1 any class of lease or rental which has a duration of more than 21 days, unless the class of lease or rental:
 - a. Is a lease or rental necessitated by a fire, flood, or other disaster that forces the agency seeking the new lease or rental to cease use of real property;
 - b. Is a lease or rental necessitated because an agency had intended to move to new or renovated real property that was not completed when planned, but a lease or rental exempted under this subparagraph may not be for a period of more than six months; or
 - c. Is a lease or rental which requires a unique location or a location that adjoins or is in close proximity to an existing rental location."

Section 39. G.S. 143-135.9 is amended by adding the following new subsection (d):

"(d) Any county, city, town or subdivision of the State may acquire information technology pursuant to this section."

Section 40. G.S. 143-138 is amended by adding a new subsection to read:

"(j1) A nonbusiness occupancy building built prior to the adoption of the 1953 Building Code that is not in compliance with Section 402.1.3.5 of Volume IX of the Building Code or Section 3407.2.2 of Volume I of the Building Code must comply with the applicable sections by December 31, 2006."

Section 41. If Senate Bill 1149, 1999 Regular Session, becomes law, then Section 6 of Senate Bill 1149 is repealed.

Section 42. G.S. 143B-426.24(j) reads as rewritten:

"(j) The Board may acquire investment vehicles from any company duly authorized to conduct such business in this State or may establish, alter, amend and modify, to the extent it deems necessary or desirable, a trust for the purpose of facilitating the administration, investment and maintenance of assets acquired by the investment of deferred funds. ~~Any assets of such investment vehicles or trusts shall remain solely the property and rights of the State subject only to the claims of the State's general creditors.~~ All assets of the Plan, including all deferred amounts, property and rights purchased with deferred amounts, and all income attributed thereto shall be held in trust for the exclusive benefit of the Plan participants and their beneficiaries."

Section 43. G.S. 162A-5(a) reads as rewritten:

"(a) Each authority organized under this Article shall consist of the number of members as may be agreed upon by the participating political ~~subdivision, subdivisions,~~ such members to be selected by the respective political subdivision. A proportionate number (as nearly as can be) of members of the authority first appointed shall have terms expiring one year, two years and three years respectively from the date on which the creation of the authority becomes effective. Successor members and members appointed by a political subdivision subsequently joining the authority shall each be appointed for a term of three years, but any person appointed to fill the vacancy shall be appointed to serve only for the unexpired term and any member may be reappointed; provided, however, that a political subdivision subsequently joining an authority created under G.S. 162A-3.1 shall not have the right to appoint any members to such authority. Appointments of successor members shall, in each instance, be made by the governing body of the political subdivision appointing the member whose successor is to be appointed. Any member of the authority may be removed, with or without cause, by the governing body appointing said member. This subsection does not apply in the case of an authority that a city joins under G.S. 162A-5.1."

Section 44. G.S. 168A-3(10)a.6., as rewritten by S.L. 1999-160, reads as rewritten:

- "6. Make physical changes to accommodate a person with a disability where:
 - I. For a new employee the cost of such changes would exceed five percent (5%) of the annual salary or annualized hourly wage for the job in question; or
 - II. For an existing employee the cost of the changes would bring the total cost of physical changes made to accommodate the employee's ~~handicapping~~ disabling conditions since the beginning of the employee's employment with the employer to greater than five percent (5%) of the employee's current salary or current annualized hourly wage; or"

Section 45. Section 2 of S.L. 1999-55 is amended by deleting "94.6" and substituting "Sec. 94.6".

Section 46. Section 1 of S.L. 1999-99 reads as rewritten:

"Section 1. Section 7.109 of the Charter of the City of Charlotte, being Chapter 713 of the 1965 Session Laws, as added by Chapter 55 of the 1981 Session Laws and as amended by Chapter 346 of the 1985 Session Laws, reads as rewritten:

'Sec. 7.109. Uptown-Public-private development projects.

(a) Definition. In this Article, 'uptown-public-private development projects' means a capital project located: (i) in the city's central business district, as defined by the city council; (ii) in or along a major transportation corridor; or (iii) in a development zone designated pursuant to G.S. 105-129.3A; comprising one or more buildings or other improvements and including both public and private facilities. By way of illustration but not limitation, such a project might include a single building comprising a publicly owned parking structure and publicly owned convention center and a privately owned hotel or office building.

(b) Authorization. If the city council finds that it is likely to ~~have a significant effect on the revitalization of the central business district,~~ be of significant economic benefit to the area of the city in which the project is located, the city may acquire, construct, own, and operate or participate in the acquisition, construction, ownership, and operation of ~~an uptown-a~~ public-private development project or of specific facilities within such a project. The city may enter into binding contracts with one or more private developers with respect to acquiring, constructing, owning, or operating such a project. Such a contract shall among other provisions, specify the following:

- (1) The property interest of both the city and the developer or developers in the project.
- (2) The responsibilities of the city and the developer or developers for construction of the project.
- (3) The responsibilities of the city and the developer or developers with respect to financing the project.
- (4) The responsibilities of the city and the developer or developers with respect to the operation of the project.

Such a contract may be entered into before the acquisition of any real property necessary to the project.

(c) Property acquisition. ~~An uptown-A~~ public-private development project may be constructed on property acquired by the developer or developers or on property directly acquired by the city by any means.

(d) Property disposition. In connection with ~~an uptown-a~~ public-private development project, the city may lease or convey interests in property owned by it, including air rights over public facilities, by private negotiation or sale, and Article 12 of Chapter 160A of the General Statutes does not apply to such dispositions.

(e) Construction of the project. The contract between the city and the developer or developers may provide that the developer or developers shall be responsible for construction of the entire ~~uptown-public-private~~ development project. If so, the contract shall include such provisions as the city council deems sufficient to assure that the public facility or facilities included in the project meet the needs of the city and are constructed at a reasonable price. A project constructed pursuant to this paragraph is

not subject to Article 8 of Chapter 143 of the General Statutes. ~~Statutes as long as city funds constitute not more than fifty percent (50%) of the total costs of the project.~~

(f) Operation. The city may contract for the operation of any public facility or facilities included in ~~an uptown~~ a public-private development project by a person, partnership, firm, or corporation, public or private. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the city.

(g) Grant funds. To assist in the financing of its share of ~~an uptown~~ a public-private development project, the city may apply for, accept and expend grant funds from the federal or State governments."

Section 47.(a) Effective December 1, 1999, G.S. 8-45.1(b), as enacted by S.L. 1999-131, reads as rewritten:

"(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD R, or CD RW. Nonerasable, computer-readable storage media shall not be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by the Department of Cultural Resources pursuant to standards and conditions established by the Department.~~"

Section 47.(b) Effective December 1, 1999, G.S. 8-45.3(b), as enacted by S.L. 1999-131, reads as rewritten:

"(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD R, or CD RW. Nonerasable, computer-readable storage media shall not be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by the Department of Cultural Resources pursuant to standards and conditions established by the Department.~~"

Section 47.(c) Effective December 1, 1999, G.S. 8-34(b), as enacted by S.L. 1999-131, reads as rewritten:

"(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD R, or CD RW. Nonerasable, computer-readable storage media shall not be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by the Department of Cultural Resources pursuant to standards and conditions established by the Department.~~"

Section 47.(d) Effective December 1, 1999, G.S. 153A-436(f), as enacted by S.L. 1999-131, reads as rewritten:

"(f) The provisions of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject

to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD-R, or CD-RW. Nonerasable, computer-readable storage media shall not be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by the Department of Cultural Resources pursuant to standards and conditions established by the Department.~~"

Section 47.(e) Effective December 1, 1999, G.S. 160A-490(b), as enacted by S.L. 1999-131, reads as rewritten:

"(b) The provisions of subsection (a) of this section shall apply to records stored on any form of permanent, computer-readable media, such as a CD-ROM, if the medium is not subject to erasure or alteration. ~~The provisions shall not apply to magnetic tape, CD-R, or CD-RW. Nonerasable, computer-readable storage media shall not be used for preservation duplicates, as defined in G.S. 132-8.2, or for the preservation of permanently valuable records as provided in G.S. 121-5(d), except to the extent expressly approved by the Department of Cultural Resources pursuant to standards and conditions established by the Department.~~"

Section 48.(a) This section is designed to resolve duplicate enactments of the same material by S.L. 1999-181 and S.L. 1999-182. This section does not add any municipalities to the coverage of G.S. 160A-300.1 that were not added separately by one or both of those Session Laws.

Section 48.(b) Section 1 of S.L. 1999-182 is repealed.

Section 48.(c) Section 2 of S.L. 1997-216, as amended by S.L. 1999-17 and S.L. 1999-181, reads as rewritten:

"Section 2. This act applies to the Cities of Charlotte, Fayetteville, Greensboro, High Point, ~~and Rocky Mount~~ Rocky Mount, and Wilmington, and the Towns of Cornelius, Huntersville, and Matthews only."

Section 48.(d) Section 2 of S.L. 1999-182 is repealed.

Section 49. Section 1 of S.L. 1999-208 reads as rewritten:

"Section 1. G.S. 160A-58.1(b)(2) shall not apply to the City of Hickory or the Town of Brookford as to any property if the City or Town has entered into an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A of the General Statutes with the city to which a point on the proposed satellite corporate limits is closer and that agreement states that the other city will not annex the property, except that this modification shall not apply to the boundary agreement between the City of Hickory and the City of Newton dated May 7, 1996. This section shall have no effect on the ability of the City of Hickory to annex property under Part 4 of Article 4A of Chapter 160A of the General Statutes if the property is closer to the Town of Maiden than it is to the City of Hickory."

Section 50. Section 2.2 of S.L. 1999-189 reads as rewritten:

"Section 2.2. G.S. 57C-2-20 reads as rewritten:

"§ 57C-2-20. Formation.

(a) One or more persons may ~~organize~~ form a limited liability company by delivering executed articles of organization to the Secretary of State for filing.

- (b) (1) When the filing by the Secretary of State files of the articles of organization,—organization becomes effective, the proposed organization becomes a limited liability company subject to this Chapter and to the purposes, conditions, and provisions stated in the articles, and the persons executing the articles of organization become members of the limited liability company. articles of organization.
- (2) Filing of the articles of organization by the Secretary of State is conclusive evidence of the organization—formation of the limited liability company, except in a proceeding by the State to cancel or revoke the articles of organization or involuntarily dissolve the limited liability company.

(c) If initial members are not identified in the articles of organization of a limited liability company in the manner provided in G.S. 57C-3-01(a), the organizers shall hold one or more meetings at the call of a majority of the organizers to identify the initial members of the limited liability company. Unless otherwise provided in this Chapter or in the articles of organization of the limited liability company, all decisions to be made by the organizers at such meetings shall require the approval, consent, agreement, or ratification of a majority of the organizers. Unless otherwise provided in the articles of organization, the organizers may, in lieu of a meeting, take action as described in this subsection by written consent signed by all of the organizers. The written consent may be incorporated in, or otherwise made part of, the initial written operating agreement of the limited liability company."

Section 51. G.S. 57C-3-03 reads as rewritten:

"§ 57C-3-03. Voting of members.

Except as provided in the articles of organization or a written operating agreement, the affirmative vote, approval, agreement, or consent of all members shall be required to:

- (1) Adopt or amend an operating agreement;
- (2) Admit any person as a member;
- (3) Sell, transfer, or otherwise dispose of all or substantially all of the assets of the limited liability company prior to the dissolution of the limited liability ~~company;~~ company.
- (4) ~~Merge the limited liability company into or with another limited liability company."~~

Section 52.(a) If Senate Bill 835, 1999 Regular Session, becomes law, then G.S. 57C-1-03(3a), as enacted by Senate Bill 835, reads as rewritten:

...

- "(3a) Business entity. – A corporation (including a professional corporation as defined in G.S. 55B-2), a foreign corporation (including a foreign professional corporation as defined in G.S. 55B-16), a domestic or foreign nonprofit corporation as defined in G.S. 55A-1-40, a domestic or foreign limited liability company, a domestic or foreign limited partnership as defined in G.S. 59-102, or any other partnership as defined in G.S. 59-36 whether or not formed under the laws of this

State (including a registered limited liability partnership as defined in G.S. 59-32 and any other limited liability partnership formed under a law other than the laws of this ~~State~~-State)."

Section 52.(b) If Senate Bill 835, 1999 Regular Session, becomes law, then G.S. 57C-9A-08(a)(1), as enacted by Senate Bill 835, reads as rewritten:

...
"(1) Each other merging business entity merges into the surviving business entity, and the separate existence of each merging business ~~entity~~, entity except the surviving business entity ceases;"

Section 53. S.L. 1999-237 is amended by rewriting the two lines above the heading to Section 11.58 to read:

"Requested by: Representatives Earle, Nye, Easterling, Hardaway, Redwine, Boyd-McIntyre, Senators Martin of Guilford, Foxx, Plyler, Perdue, Odom".

Section 54. Section 15.15 of S.L. 1999-237 is amended by designating the existing language as (a) and adding a new subsection to read:

"Section 15.15.(b) If the Director of the Office of State Budget determines that sufficient State funds are available from any source to match federal funds for the detoxification of the Warren County polychlorinated biphenyl (PCB) landfill, consistent with the provisions of Section 29.9 of S.L. 1998-212, the Director may transfer funds not to exceed seven million dollars (\$7,000,000) to the Department of Environment and Natural Resources to be placed in the nonreverting reserve established under Section 29.9(a) of S.L. 1998-212."

Section 55. Section 16.7(c)(10) of S.L. 1999-237 reads as rewritten:

"(10) One representative from the American Lung Association of North Carolina who is a resident of this State, appointed by the President Pro Tempore of the Senate."

Section 56. Section 18.13 of S.L. 1999-237 reads as rewritten:

"Section 18.13. The Department of Correction may use funds available to the Department during the 1999-2001 biennium for payment to claimants as part of the settlement of the Title VII lawsuit over the recruitment, hiring, and promotion of females in the Department. ~~Prior to final settlement of the lawsuit, the~~ The Department shall report on the proposed settlement to the Joint Legislative Commission on Governmental Operations, Operations on the details of the settlement of the lawsuit within 60 days of the court's entry of the final order. The Department shall also report to the Joint Legislative Corrections and Crime Control Oversight Committee, and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety."

Section 57. Notwithstanding the provisions of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, dated June 29, 1999, which was distributed in the House of Representatives and the Senate and used to explain S.L. 1999-237, funds in the amount of two hundred forty thousand dollars (\$240,000) that were appropriated to the State Board of Education for the 1999-2000 fiscal year in S.L. 1999-237 for the school leadership pilot project shall be used by four

local school administrative units to participate in the nationwide program of the Center for Leadership in School Reform.

Section 58.(a) For the 1999-2001 biennium, the Department of Health and Human Services shall continue to provide the current office space for the four regional offices of the Governor's Advocacy Council for Persons with Disabilities or office space that is comparable to that now used by the Council.

Section 58.(b) For the 1999-2001 biennium, the Secretary of Administration may use funds from parking revenues that are in excess of parking system expense requirements to fund the fifteen dollar (\$15.00) per month subsidies for vanpools and transit passes.

Section 59. Whenever any law, public or local, provides a form requiring the user of the form to fill in the last two digits of the year and the number "19" appears as the first two digits of the year, then effective January 1, 2000, those first two digits are deleted from the law.

Section 60. Articles 1 through 11 of Subchapter I of Chapter 7B of the General Statutes, as enacted by Section 6 of S.L. 1998-202, and as amended by Sections 18 through 28 of S.L. 1998-229, become effective July 1, 1999, and apply to abuse, neglect, and dependency reports received, petitions filed, and reviews commenced on and after that date.

Section 61.(a) If Senate Bill 10, 1999 General Assembly, is enacted, then G.S. 131D-7, as enacted by that act, is recodified as "G.S. 131D-8", and all references in Senate Bill 10, as enacted, to "G.S. 131D-7" are rewritten to read "G.S. 131D-8".

Section 61.(b) If Senate Bill 10, 1999 Regular Session, becomes law, then G.S. 14-32.2(e1), as enacted by Section 3.15 of that act, is amended by deleting "health, welfare, or comfort" and substituting "health or welfare".

Section 62. The prefatory language of Section 3 of Ratified House Bill 253, 1999 Regular Session, is rewritten to read:

"Section 3. G.S. 143B-472.41(a)(8) reads as rewritten:".

Section 63. If both House Bill 1072 and Senate Bill 881 of the 1999 Regular Session become law, then G.S. 163-278.23, as amended by Section 5(b) of Senate Bill 881, is amended by deleting the word "opinions" the second time that word appears.

Section 64. If Senate Bill 1115, 1999 Regular Session, becomes law, then G.S. 105-129.3(e)(1), as enacted by that act, is amended by deleting "has is designated", and substituting "is designated".

Section 65. Effective July 1, 1999, Section 16.35(a) of S.L. 1999-237 reads as rewritten:

"Section 16.35.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of ~~one million four hundred seventy thousand dollars (\$1,470,000)~~ one million four hundred fifty-seven thousand three hundred thirty-eight dollars (\$1,457,338) for the 1999-2000 fiscal year and the sum of ~~one million four hundred seventy thousand dollars (\$1,470,000)~~ one million four hundred fifty-seven thousand three hundred thirty-eight dollars (\$1,457,338) for the 2000-2001 fiscal year shall be allocated as follows:

1999-2000 FY

2000-2001 FY

Research and Demonstration Grants	\$475,864	\$475,864
Technical Assistance and Center Administration of Research and Demonstration Grants	444,136	444,136
Center Administration, Oversight, and Other Programs	350,000 <u>337,338</u>	350,000 <u>337,338</u>
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	200,000	200,000."

Section 66. G.S. 58-79-30 is repealed.

Section 67. If Senate Bill 746, 1999 Regular Session, becomes law, then it becomes effective October 1, 1999. G.S. 1-543.12, as enacted by that act, reads as rewritten:

"§ 1-543.12. Structured settlement payment rights.

No direct or indirect transfer of structured settlement payment rights shall be effective, and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction or a responsible administrative authority based on express findings by such court or responsible administrative authority that:

- (1) The transfer complies with the requirements of this Article law;
- (2) Not less than 10 days prior to the date on which the payee first incurred any obligation with respect to the transfer, the transferee has provided to the payee a disclosure statement in bold type, no smaller than 14 point setting forth:
 - a. The amounts and due dates of the structured settlement payments to be transferred;
 - b. The aggregate amount of such payments;
 - c. The discounted present value of such payments;
 - d. The gross amount payable to the payee in exchange for such payments;
 - e. An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, legal fees, notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;
 - f. The net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges described in sub-subdivision e. of this subdivision;
 - g. The quotient (expressed as a percentage) obtained by dividing the net payment amount by the discounted present value of the payments;

- h. The discount rate used by the transferee to determine the net amount payable to the payee for the structured settlement payments to be transferred; and
 - i. The amount of any penalty and the aggregate amount of any liquidated damages (inclusive of penalties) payable by the payee in the event of any breach of the transfer agreement by the payee;
- (3) The transfer is in the best interest of the payee;
 - (4) The payee has received independent professional advice regarding the legal, tax, and financial implications of the transfer;
 - (5) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of such notice with the court or responsible administrative authority;
 - (6) The discount rate used in determining the net amount payable to the payee, as provided in subdivision (2) of this section, does not exceed an annual percentage rate of prime plus five percentage points calculated as if the net amount payable to the payee, as provided in sub-subdivision (2)f. of this section, was the principal of a consumer loan made by the transferee to the payee, and if the structured settlement payments to be transferred to the transferee were the payee's payments of principal plus interest on such loan. For purposes of this subdivision, the prime rate shall be as reported by the Federal Reserve Statistical Release H.15 on the first Monday of the month in which the transfer agreement is signed by both the payee and the transferee, except when the transfer agreement is signed prior to the first Monday of that month then the prime rate shall be as reported by the Federal Reserve Statistical Release H.15 on the first Monday of the preceding month;
 - (7) Any brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee do not exceed two percent (2%) of the net amount payable to the payee;
 - (8) The transfer of structured settlement payment rights is fair and reasonable; and
 - (9) Notwithstanding a provision of the structured settlement agreement prohibiting an assignment by the payee, the court may order a transfer of periodic payment rights provided that the court finds that the provisions of this Article are satisfied.

If the court or responsible administrative authority authorizes the transfer pursuant to this section, the court or responsible administrative authority shall order the structured settlement obligor to execute an acknowledgment of assignment letter on behalf of the

transferee for the amount of the structured settlement payment rights to be transferred.
transferred; provided, however, structured settlement payment rights arising from a
claim pursuant to Chapter 97 shall not be authorized."

Section 67.1. If Senate Bill 285, 1999 Regular Session becomes law, then G.S. 20-79.6(b) as amended by Senate Bill 285, 1999 Regular Session, reads as rewritten:

"(b) Superior Court. – A special plate issued to a resident superior court judge shall bear the letter 'J' followed by a number indicative of the judicial district the judge serves. The number issued to the senior resident superior court judge shall be the numerical designation of the judge's judicial district, as defined in G.S. 7A-41.1(a)(1). If a district has more than one regular resident superior court judge, a special plate for a resident superior court judge of that district shall bear the number issued to the senior resident superior court judge followed by a hyphen and a letter of the alphabet beginning with the letter 'A' to indicate the judge's seniority.

For a set any grouping of districts as defined in G.S. 7A-41.1(a)(2), having the same numerical designation, other than districts where there are two or more resident superior court judges, the number issued to the senior resident superior court judge shall be the number the districts in the set have in common. A special plate issued to the other regular resident superior court judges of the set of districts shall bear the number issued to the senior resident superior court judge followed by a hyphen and a letter of the alphabet beginning with the letter 'A' to indicate the judge's seniority among all of the regular resident superior court judges of the set of districts. The letter assigned to a resident superior court judge will not necessarily correspond with the letter designation of the district the judge serves.

Where there are two or more regular resident superior court judges for the district or set of districts, the registration plate with the letter 'A' shall be issued to the judge who, from among all the regular resident superior court judges of the district or set of districts, has the most continuous service as a regular resident superior court judge; provided if two or more judges are of equal service, the oldest of those judges shall receive the next letter registration plate. Thereafter, registration plates shall be issued based on seniority within the district or set of districts.

A special judge, emergency judge, or retired judge of the superior court shall be issued a special plate bearing the letter 'J' followed by a number designated by the Administrative Office of the Courts with the approval of the Chief Justice of the Supreme Court of North Carolina. The plate for a retired judge shall have the letter 'X' after the designated number to indicate the judge's retired status."

Section 68. If House Bill 1160, 1999 Regular Session, becomes law, then effective 1 October 1999 the next to the last sentence of G.S. 143-215.1C(b)(2), the next to the last sentence of G.S. 143-215.1C(c)(2), and the next to last sentence of G.S. 143-215.10C(h)(2), as enacted by Part VIII of that act, which are identical, are amended by deleting 'of the discharge.' and substituting 'after the notice is published.' in each subdivision.

Section 69. If Senate Bill 953, 1999 Regular Session, becomes law, then effective when that act becomes law Section 13.14 of that act is redesignated as Section 3.14.

Section 70. Section 7 of S.L. 1999-209 reads as rewritten:

"Section 7. The Department of Environment and National Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture on the use of funds derived from the sale of licenses and endorsements under Article 14A of Chapter 113 of the General Statutes no later than 1 October ~~1999~~.2000."

Section 71. Except as otherwise provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21st day of July, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 4:07 p.m. this 13th day of August, 1999