

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1225*
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Short Title: 2004 Technical Corrections Act.

(Public)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

1 AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING
2 CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE
3 GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER
4 CHANGES TO THE GENERAL STATUTES AND SESSION LAWS, AS
5 APPROVED BY THE HOUSE RULES, CALENDAR, AND OPERATIONS OF
6 THE HOUSE COMMITTEE.
7

8 The General Assembly of North Carolina enacts:

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

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

12 **"§ 62-3. Definitions.**

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

14 ...

15 (23) ...

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

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

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

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

- 19 e. The term "public utility" shall include the University of North
20 Carolina insofar as said University supplies telephone service,
21 electricity or water to the public for compensation from the
22 University Enterprises defined in G.S. 116-41.1(9).
- 23 f. The term "public utility" shall include the Town of Pineville
24 insofar as said town supplies telephone services to the public
25 for compensation. The territory to be served by the Town of
26 Pineville in furnishing telephone services, subject to the Public
27 Utilities Act, shall include the town limits as they exist on May
28 8, 1973, and shall also include the area proposed to be annexed
29 under the town's ordinance adopted May 3, 1971, until January
30 1, 1975.
- 31 g. The term "public utility" shall not include a hotel, motel, time
32 share or condominium complex operated primarily to serve
33 transient occupants, which imposes charges to occupants for
34 local, long-distance, or wide area telecommunication services
35 when such calls are completed through the use of facilities
36 provided by a public utility, and provided further that the local
37 services received are rated in accordance with the provisions of
38 G.S. 62-110(d) and the applicable charges for telephone calls
39 are prominently displayed in each area where occupant rooms
40 are located.
- 41 h. The term "public utility" shall not include the resale of
42 electricity by (i) a campground operated primarily to serve
43 transient occupants, or (ii) a marina; provided that (i) the
44 campground or marina charges no more than the actual cost of

1 the electricity supplied to it, (ii) the amount of electricity used
 2 by each campsite or marina slip occupant is measured by an
 3 individual metering device, (iii) the applicable rates are
 4 prominently displayed at or near each campsite or marina slip,
 5 and (iv) the campground or marina only resells electricity to
 6 campsite or marina slip occupants.

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

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

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

22"

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

24 **"§ 111-52. Profits from Highway Vending Fund.**

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

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

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

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

43 "(e) The Department of Public Instruction, the Department of Community
 44 Colleges, and the Office of ~~the State Controller~~ Information Technology Services shall

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

8 **PART II. OTHER CHANGES**

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

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

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

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

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

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

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

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

41 The following definitions apply to this subsection:

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

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

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

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

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

SECTION 9. G.S. 18B-603(f) reads as rewritten:

"(f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

- (1) Special occasion permits;
- (2) Limited special occasion permits;
- (3) Brown-bagging permits for private clubs and congressionally chartered veterans organizations;
- (4) Culinary permits, except as restricted by subdivision (d)(5);
- (5) Special one-time permits issued under G.S. 18B-1002;
- (6) All permits listed in G.S. 18B-1100;
- (7) ~~On premises malt beverage permits and on premises unfortified wine permits for a tourism ABC establishment;~~ The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ABC establishments;
- (8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism resorts;
- (9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic ABC establishments."

SECTION 10. G.S. 18B-1006(m)(2) reads as rewritten:

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

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

SECTION 11. G.S. 18B-1101(6) reads as rewritten:

1 **"§ 18B-1101. Authorization of unfortified winery permit.**

2 The holder of an unfortified winery permit may:

3 ...

- 4 (6) Sell the wine ~~owned~~manufactured by the winery or produced under
5 the winery's label under subdivision (2a) of this section for on- or
6 off-premise consumption at no more than three other locations in the
7 State, upon obtaining the appropriate permit under G.S. 18B-1001; and

8"

9 **SECTION 12.** G.S. 19A-24(1) reads as rewritten:

10 **"§ 19A-24. Powers of Board of Agriculture.**

11 The Board of Agriculture may:

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

19"

20 **SECTION 13.(a)** G.S. 20-16.1(b) reads as rewritten:

21 "(b) ...

- 22 (3) Upon conviction of such offense outside the jurisdiction of this State
23 the person so convicted may apply to ~~the resident judge of the superior~~
24 ~~court~~a district court judge of the district or set of districts as defined in
25 G.S. 7A-41.1(a) in which he resides for limited driving privileges
26 hereinbefore defined. Upon such application the judge shall have the
27 authority to issue such limited driving privileges in the same manner as
28 if he were the trial judge.

29"

30 **SECTION 13.(b)** G.S. 97-10.2(j) reads as rewritten:

31 "(j) Notwithstanding any other subsection in this section, in the event that a
32 judgment is obtained by the employee in an action against a third party, or in the event
33 that a settlement has been agreed upon by the employee and the third party, either party
34 may apply to the resident superior court judge of the county in which the cause of action
35 ~~arose, arose or~~ where the injured employee resides or the resides, or to a presiding judge
36 ~~before whom the cause of action is pending, of either district,~~ to determine the
37 subrogation amount. After notice to the employer and the insurance carrier, after an
38 opportunity to be heard by all interested parties, and with or without the consent of the
39 employer, the judge shall determine, in his discretion, the amount, if any, of the
40 employer's lien, whether based on accrued or prospective workers' compensation
41 benefits, and the amount of cost of the third-party litigation to be shared between the
42 employee and employer. The judge shall consider the anticipated amount of prospective
43 compensation the employer or workers' compensation carrier is likely to pay to the
44 employee in the future, the net recovery to plaintiff, the likelihood of the plaintiff

1 prevailing at trial or on appeal, the need for finality in the litigation, and any other
2 factors the court deems just and reasonable, in determining the appropriate amount of
3 the employer's lien. If the matter is pending in the federal district court such
4 determination may be made by a federal district court judge of that division."

5 **SECTION 14.** G.S. 20-179.4 reads as rewritten:

6 "**§ 20-179.4. Community service alternative punishment; responsibilities of the**
7 **Department of ~~Crime Control and Public Safety~~; Correction; fee.**

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

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

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

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

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

34 **SECTION 15.** G.S. 35A-1251(23) reads as rewritten:

35 "(23) To create a trust for the benefit of the ward pursuant to 42 United
36 States Code § 1396p(d)(4), provided that all amounts remaining in the
37 trust upon the death of the ward, other than those amounts which must
38 be paid to a state ~~government~~,government and those amounts retained
39 by a nonprofit association as set forth in 42 United States Code
40 § 1396p(d)(4)(C), are to be paid to the estate of the ward."

41 **SECTION 16.** G.S. 47-2 reads as rewritten:

42 "**§ 47-2. Officials of the United States, foreign countries, and sister states.**

43 The execution of all such instruments and writings as are permitted or required by
44 law to be registered may be proved or acknowledged before any one of the following

1 officials of the United States, of the District of Columbia, of the several states and
 2 territories of the United States, of countries under the dominion of the United States and
 3 of foreign countries: Any judge of a court of record, any clerk of a court of record, any
 4 notary public, any commissioner of deeds, any commissioner of oaths, any mayor or
 5 chief magistrate of an incorporated town or city, any ambassador, minister, consul,
 6 vice-consul, consul general, vice-consul general, associate consul, or any other person
 7 authorized by federal law to acknowledge documents as consular officers, or
 8 commercial agent of the United States, any justice of the peace of any state or territory
 9 of the United States, any officer of the army or air force of the United States or United
 10 States marine corps having the rank of warrant officer or higher, any officer of the
 11 United States navy or coast guard having the rank of warrant officer, or higher, or any
 12 officer of the United States merchant marine having the rank of warrant officer, or
 13 higher. No official seal shall be required of said military, naval or merchant marine
 14 official, but he shall sign his name, designate his rank, and give the name of his ship or
 15 military organization and the date, and for the purpose of certifying said
 16 acknowledgment, he shall use a form in substance as follows:

17 On this the _____ day of _____, _____, before me _____, the undersigned
 18 officer, personally appeared _____, known to me (or satisfactorily proven) to be
 19 accompanying or serving in or with the armed forces of the United States (or to be the
 20 spouse of a person accompanying or serving in or with the armed forces of the United
 21 States) and to be the person whose name is subscribed to the within instruments and
 22 acknowledged that _____ he _____ executed the same for the purposes therein
 23 contained. And the undersigned does further certify that he is at the date of this
 24 certificate a commissioned officer of the rank stated below and is in the active service of
 25 the armed forces of the United States.

26 _____
 27 Signature of Officer

28 _____
 29 Rank of Officer and command to which attached.

30 If the proof or acknowledgment of the execution of an instrument is had before a
 31 justice of the peace of any state of the United States other than this State or of any
 32 territory of the United States, the certificate of such justice of the peace shall be
 33 accompanied by a certificate of the clerk of some court of record of the county in which
 34 such justice of the peace resides, which certificate of the clerk shall be under his hand
 35 and official seal, to the effect that such justice of the peace was at the time the certificate
 36 of such justice bears date an acting justice of the peace of such county and state or
 37 territory and that the genuine signature of such justice of the peace is set to such
 38 certificate."

39 **SECTION 17.** Article 4 of Chapter 47 of the General Statutes is amended by
 40 adding the following new section to read:

41 **"§ 47-50.1. Register's certificate omitted.**

42 In all cases prior to October 1, 2004, where it appears from the records of the office
 43 of the register of deeds of any county in this State that the execution of a deed of
 44 conveyance or other instrument by law required or authorized to be registered was duly

1 signed and acknowledged as required by the laws of this State, and the register of deeds
2 has failed to certify the correctness of the acknowledgment as required by
3 G.S. 47-14(a), the registrations are hereby validated and the instrument so appearing in
4 the office of the register of deeds of that county is effective to the same extent as if the
5 register of deeds had properly certified the correctness of the acknowledgment."

6 **SECTION 18.** G.S. 47-53.1 reads as rewritten:

7 **"§ 47-53.1. Acknowledgment omitting seal of clerk or notary public.**

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

14 **SECTION 19.** G.S. 55B-2(6) reads as rewritten:

15 **"§ 55B-2. Definitions.**

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

18 ...

19 (6) The term "professional service" means any type of personal or
20 professional service of the public which requires as a condition
21 precedent to the rendering of such service the obtaining of a license
22 from a licensing board as herein defined, and pursuant to the following
23 provisions of the General Statutes: Chapter 83A, "Architects"; Chapter
24 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the
25 following Articles in Chapter 90: Article 1, "Practice of Medicine,"
26 Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy,"
27 Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with
28 regard to registered nurses, Article 11, "Veterinarians," Article 12A,
29 "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C,
30 "Marriage and Family Therapy Licensure," Article 18D, "Occupational
31 Therapy," ~~and Article 22, "Licensure Act for Speech and Language~~
32 Pathologists and Audiologists," and Article 24, "Licensed Professional
33 Counselors"; Chapter 89C, "Engineering and Land Surveying";
34 Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker
35 Certification and Licensure Act" with regard to Certified [Licensed]
36 Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E,
37 "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North
38 Carolina Soil Scientist Licensing Act".

39 **SECTION 20.(a)** G.S. 58-2-150 reads as rewritten:

40 **"§ 58-2-150. Oath required for compliance with law.**

41 Before issuing license to any insurance company to transact the business of
42 insurance in this State, the Commissioner shall require, in every case, in addition to the
43 other requirements provided for by law, that the company file with him the affidavit of
44 its president or other chief officer that ~~it has not violated any of the provisions of~~

1 ~~Articles 1 through 64 of this Chapter for the space of 12 months last past, and that it~~
2 accepts the terms and obligations of Articles 1 through 64 of this Chapter as a part of
3 the consideration of the license."

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

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

6 ...

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

9"

10 **SECTION 20.(c)** G.S. 58-21-65(b)(4) is repealed.

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

12 "**§ 58-22-20. Risk retention groups not chartered in this State.**

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

16 ...

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

20"

21 **SECTION 20.(e)** G.S. 58-33-82(e) reads as rewritten:

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

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

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

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

33 **SECTION 20.(f)** G.S. 58-36-90(e) reads as rewritten:

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

41 **SECTION 20.(g)** G.S. 58-36-90(f) reads as rewritten:

42 "(f) Filing. – Insurers that use ~~insurance-credit~~ scores to underwrite and rate risks
43 shall file their scoring models, or other scoring processes, with the Department. A filing
44 that includes ~~insurance-credit~~ scoring may include loss experience justifying the

1 applicable surcharge or credit. A filer may request that its credit score data be
2 considered a trade secret and may designate parts of its filings accordingly."

3 **SECTION 20.(h)** G.S. 97-165(10) reads as rewritten:

4 "**§ 97-165. Definitions.**

5 As used in this Article:

6 ...

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

9 **SECTION 21.** G.S. 58-3-33(a) reads as rewritten:

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

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

26"

27 **SECTION 22.(a)** G.S. 58-85-1 reads as rewritten:

28 "**§ 58-85-1. Application of fund.**

29 The money paid into the hands of the treasurer of the North Carolina State Firemen's
30 Association shall be known and remain as the "Firemen's Relief Fund" of North
31 Carolina, and shall be used as a fund for the relief of ~~firemen, firemen and county fire~~
32 marshals, who are members of such this Association, who may be injured or rendered
33 sick by disease contracted in the actual discharge of duty as ~~firemen, firemen or county~~
34 fire marshals, and for the relief of widows, children, and if there be no widow or
35 children, then dependent mothers of such the firemen and county fire marshals killed or
36 dying from disease so contracted in such the discharge of duty; to be paid in such the
37 manner and in such the sums to such the individuals of the classes herein named and
38 described as may be provided for and determined upon in accordance with the
39 constitution and bylaws of said the Association, and such any provisions and
40 determinations made pursuant to said under the constitution and bylaws shall be final
41 and conclusive as to the persons entitled to benefits and as to the amount of benefit to be
42 received, and no action at law shall be maintained against said the Association to
43 enforce any claim or recover any benefit under this Article or under the constitution and
44 bylaws of said the Association; but if any officer or committee of said the Association

1 omit or refuse to perform any duty imposed upon him or them, nothing herein contained
2 shall be construed to prevent any proceedings against ~~said that~~ officer or committee to
3 compel him or them to perform ~~such that~~ duty. No fireman or county fire marshal shall
4 be entitled to receive any benefits under this section until the firemen's relief fund of his
5 city or town ~~shall have~~ has been exhausted. Notwithstanding the above provisions, the
6 Executive Board of the North Carolina State Firemen's Association is hereby authorized
7 to grant educational scholarships to members and the children of members, to subsidize
8 premium payments of members over 65 years of age to the Firemen's Fraternal
9 Insurance Fund of the North Carolina State Firemen's Association, and to provide
10 accidental death and dismemberment insurance for members of those fire departments
11 not eligible for benefits pursuant to standards of certification adopted by the State
12 Firemen's Association for the use of local relief funds."

13 **SECTION 22.(b)** G.S. 58-85-15 reads as rewritten:

14 **"§ 58-85-15. Who shall participate in the fund.**

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

18 **SECTION 22.(c)** G.S. 58-85-20 reads as rewritten:

19 **"§ 58-85-20. Who may become members.**

20 Any organized fire company in North Carolina, holding itself ready for duty, may,
21 upon compliance with the requirements of ~~said its~~ constitution and bylaws, become a
22 member of the North Carolina State Firemen's Association, and any fireman of good
23 moral character in North Carolina, and belonging to an organized fire company, who
24 ~~will comply~~ complies with the requirements of the constitution and bylaws of the North
25 Carolina State Firemen's Association, may become a member of ~~said the~~ Association.
26 Any county fire marshal office may, upon compliance with the requirements of its
27 constitution and bylaws, become a member of the North Carolina Firemen's
28 Association, and any employee of a county fire marshal office of good moral character
29 whose sole duty is to act as a fire marshal, deputy fire marshal, assistant fire marshal, or
30 firefighter of the county, who complies with the requirements of its constitution and
31 bylaws, may become a member of the North Carolina Firemen's Association."

32 **SECTION 22.(d)** G.S. 58-85-25 reads as rewritten:

33 **"§ 58-85-25. Applied to members of regular fire company.**

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

38 **SECTION 23.** G.S. 62-82(a) reads as rewritten:

39 "(a) Notice of Application for Certificate for Generating Facility; Hearing; Briefs
40 and Oral Arguments. – Whenever there is filed with the Commission an application for
41 a certificate of public convenience and necessity for the construction of a facility for the
42 generation of electricity under G.S. 62-110.1, the Commission shall require the
43 applicant to publish a notice thereof once a week for four successive weeks in a daily
44 newspaper of general circulation in the county where such facility is proposed to be

1 constructed and thereafter the Commission upon complaint shall, or upon its own
2 initiative may, upon reasonable notice, enter upon a hearing to determine whether such
3 certificate shall be awarded. Any such hearing must be commenced by the Commission
4 not later than three months after the filing of such application, and the procedure for
5 rendering decisions therein shall be given priority over all other cases on the
6 Commission's calendar of hearings and decisions, except rate proceedings referred to in
7 G.S. 62-81. Such applications shall be heard as provided in G.S. 62-60.1, and the
8 Commission shall furnish a transcript of evidence and testimony submitted by the end
9 of the second business day after the taking of each day of testimony. The Commission
10 or panel shall require that briefs and oral arguments in such cases be submitted within
11 30 days after the conclusion of the hearing, and the Commission or panel shall render its
12 decision in such cases within 60 days after submission of such briefs and arguments. If
13 the Commission or panel does not, upon its own initiative, order a hearing and does not
14 receive a complaint within 10 days after the last day of publication of the notice, the
15 Commission or panel shall enter an order awarding the certificate. Notwithstanding this
16 section, applicants for a certificate for solar photovoltaic facilities of 10 kilowatts or less
17 are exempt from the requirement to publish public notice in newspapers."

18 **SECTION 24.** G.S. 66-27.1(a) reads as rewritten:

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

27 **SECTION 25.** G.S. 90-85.21A(a) reads as rewritten:

28 "(a) Any pharmacy operating outside the State which ships, mails, or delivers in
29 any manner a dispensed legend drug into this State shall annually register with the
30 Board on a form provided by the Board. In order to satisfy the registration requirements
31 of this subsection, a pharmacy shall certify that the pharmacy employs a pharmacist
32 who is responsible for dispensing, shipping, mailing, or delivering dispensed legend
33 drugs into this State or in a state approved by the Board and has met requirements for
34 licensure equivalent to the requirements for licensure in this State. In order for the
35 pharmacy's certification of the pharmacists to be valid, a pharmacist shall agree in
36 writing, on a form approved by the Board, to be subject to the jurisdiction of the Board,
37 the provisions of this Article, and the rules adopted by the Board. If the Board revokes
38 this certification, the pharmacy shall no longer have authority to dispense, ship, mail, or
39 deliver in any manner a dispensed legend drug into this State."

40 **SECTION 26.(a)** G.S. 90-171.21(d) reads as rewritten:

41 "(d) Qualifications. – Of the eight registered nurse members on the Board, one
42 shall be a nurse administrator employed by a hospital or a hospital system, who shall be
43 accountable for the administration of nursing services and not directly involved in
44 patient care; one shall be an individual who meets the requirements to practice as a

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

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

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

28 (2) Every licensed practical nurse member shall meet the following
29 criteria:

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

40 (3) A public member shall not be a provider of health services, employed
41 in the health services field, or hold a vested interest at any level in the
42 provision of health services as defined by the North Carolina Board of
43 Ethics. No public member or person in the public member's immediate

1 family as defined by G.S. 90-405(8) shall be currently employed as a
2 licensed nurse or been previously employed as a licensed nurse.

3 (4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical
4 nurse specialist member shall be recognized by the Board as a
5 registered nurse who meets the following criteria:

6 a. Has graduated from or completed a graduate level advanced
7 practice nursing education program accredited by a national
8 accrediting body.

9 b. Maintains current certification or recertification from a national
10 credentialing body approved by the Board or meets other
11 requirements established by rules adopted by the Board.

12 c. Practices in a manner consistent with rules adopted by the
13 Board and other applicable law."

14 **SECTION 26.(b)** This section is effective when it becomes law and applies
15 to members elected to the Board on or after January 1, 2005.

16 **SECTION 27.(a)** Article 28B of Chapter 106 of the General Statutes is
17 repealed.

18 **SECTION 27.(b)** G.S. 120-123(36) is repealed.

19 **SECTION 27.(c)** G.S. 143B-431(a)(2)(i) is repealed.

20 **SECTION 27.(d)** G.S. 143B-433(l)(i) is repealed.

21 **SECTION 27.(e)** G.S. 106-577 reads as rewritten:

22 **"§ 106-557. Notice of referendum; statement of amount, basis and purpose of**
23 **assessment; maximum assessment.**

24 With respect to any referendum conducted under the provisions of this Article, the
25 duly certified commission, council, board or other agency shall, before calling and
26 announcing such referendum, fix, determine and publicly announce at least 30 days
27 before the date determined upon for such referendum, the date, hours and polling places
28 for voting in such referendum, the amount and basis of the assessment proposed to be
29 collected, the means by which such assessment shall be collected if authorized by the
30 growers, and the general purposes to which said amount so collected shall be applied;
31 no annual assessment levied under the provisions of this Article shall exceed one half of
32 one percent (1/2 of 1%) of the value of the year's production of such agricultural
33 commodity grown by any farmer, producer or grower included in the group to which
34 such referendum is submitted. Provided, that the assessment for the research and
35 promotion programs of the American Dairy Association of North Carolina may be fixed
36 on the volume of milk sold not to exceed one percent (1%) of the statewide blend price
37 paid to all North Carolina producers during the previous calendar year for three and
38 one-half percent (3.5%) milk as computed by the ~~North Carolina Milk Commission.~~
39 United States Department of Agriculture. Provided further, that the assessment
40 authorized by this Article and collected by the Commissioner of Agriculture to be paid
41 to the North Carolina Yam Commission, Inc., or other duly certified agencies entitled
42 thereto for research, marketing and promotional programs related to yams or sweet
43 potatoes may be levied at a rate not to exceed two percent (2%) of the value of the year's
44 production of that agricultural commodity grown by any farmer, producer or grower

1 included in the group to which the referendum is submitted, and when authorized by
2 two-thirds or more of the farmers, producers or growers in the area in which the
3 referendum is conducted, the rate of the assessment may remain in effect for the length
4 of time provided in the referendum. Provided further, that the assessment authorized by
5 this Article on peanuts may not exceed two percent (2%) of the price paid to the
6 producer."

7 **SECTION 27.(f)** G.S. 44-69.3 reads as rewritten:

8 **"§ 44-69.3. Liens on tangible and intangible assets of milk distributors.**

9 (a) A producer, or an association of producers who supplies milk either through
10 an agreement of sale or on consignment to a distributor shall, upon complying with the
11 provisions of this section, have a lien upon the tangible and intangible assets, including
12 but not limited to the accounts receivable of the distributor to secure payment for such
13 milk. ~~For purposes of this section the term "milk" is as defined in Article 28B of~~
14 ~~Chapter 106 of the General Statutes.~~ For the purposes of this section, 'milk' means the
15 lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained
16 from separation or other process.

17 (b) The lien claimed by the producer or association of producers must be filed in
18 the office of the clerk of court for the county of the distributor's principal place of
19 business. Provided that if the distributor is not a resident of the State a filing must be
20 made with the clerk of superior court for the county in which the distributor's registered
21 office is located. The clerk shall note the claim of lien on the judgment docket and index
22 the same under the name of the distributor at the time the claim is filed.

23 (c) A producer or association of producers claiming nonpayment for milk sold to
24 a distributor shall file with the clerk a notarized statement of nonpayment. The
25 statement shall contain at a minimum all of the following information:

26 (1) The name of the distributor who received the ~~milk;~~milk.

27 (2) The date and quantity of milk shipped for which payment has not been
28 ~~received;~~ and received.

29 (3) ~~A statement from the North Carolina Milk Commission certifying the~~
30 ~~amount due from the distributor, and the date payment was due.~~

31 The producer or association of producers shall furnish a copy of the statement as
32 provided by this subsection to the distributor, which shall constitute a notice of claim of
33 lien. The notice shall be served personally by a person authorized by law to serve
34 process or by certified mail. The lien granted by this section shall be effective as of the
35 time it is filed with the clerk of court. Provided the distributor shall have the right to
36 contest the validity of such lien by filing, with the clerk of court and serving on the
37 producer within 10 days after he receives notice that the producer has filed a claim of
38 lien, a notice that the distributor contest the amount due thereunder. In the event the
39 distributor fails to contest the lien or is unsuccessful in obtaining a discharge of the lien,
40 the lien shall be perfected as of the date of filing with the clerk of court.

41 (d) The lien created by this section may be discharged in any of the following
42 manner:

- 1 (1) ~~By filing with the clerk of superior court a receipt of acknowledgment~~
 2 ~~signed by the chairman of the North Carolina Milk Commission or his~~
 3 ~~designee, that the lien has been discharged;~~
 4 (2) By depositing with the clerk of superior court money equal to the
 5 amount of the claim, which money shall be held for the benefit of the
 6 ~~producer; or~~ producer.
 7 (3) By an entry in the lien docket that the action on the part of the lien
 8 claimant to enforce the lien has been dismissed or a judgment has been
 9 rendered against the claimant in such action.
 10 (4) By filing with the clerk a sworn statement signed by the producer or an
 11 official of an association of producers that the lien or claim of lien has
 12 been satisfied.

13 (e) Action to enforce the lien created by this section may be instituted in any
 14 court of competent jurisdiction in the county where the lien was filed not later than 90
 15 days following the maturity of the distributor's obligation to pay for the milk. In the
 16 event no action to enforce the lien is commenced within the 90-day period the lien
 17 created hereby shall no longer be valid. ~~Nothing herein shall prohibit the North Carolina~~
 18 ~~Milk Commission from acting as a mediator or an arbitrator between the distributor and~~
 19 ~~producer or association of producers when there is a claim of nonpayment at any time~~
 20 ~~before or after claim of lien is filed but before a judgment is rendered."~~

21 **SECTION 28.** G.S. 114-19.50, Article VI. Establishment of Compact
 22 Council., subsection (b)(3), reads as rewritten:

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

25 ...

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

33 "

34 **SECTION 29.(a)** G.S. 115C-522(a) reads as rewritten:

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

1 contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate
2 funds are available to pay in the current fiscal year the sums obligated for the current
3 fiscal year. The State Board of Education shall adopt rules regarding equipment
4 standards for supplies, equipment, and materials related to student transportation. The
5 State Board may adopt guidelines for any commodity that needs safety features. If a
6 commodity that needs safety features is available on statewide term contract, any
7 guidelines adopted by the State Board must at a minimum meet the safety standards of
8 the statewide term contract. Compliance with Article 8 of Chapter 143 of the General
9 Statutes is not mandatory for the purchase of published books, manuscripts, maps,
10 pamphlets, and periodicals.

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

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

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

36 **SECTION 29.(b)** This section becomes effective April 1, 2004.

37 **SECTION 30.(a)** G.S. 115C-549 reads as rewritten:

38 **"§ 115C-549. Standardized testing requirements.**

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

1 make and maintain records of the results achieved by its students. For one year after the
2 testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~
3 G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for
4 annual inspection by a duly authorized representative of the State of North Carolina."

5 **SECTION 30.(b)** G.S. 115C-550 reads as rewritten:

6 **"§ 115C-550. High school competency testing.**

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

20 **SECTION 30.(c)** G.S. 115C-557 reads as rewritten:

21 **"§ 115C-557. Standardized testing requirements.**

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

32 **SECTION 30.(d)** G.S. 115C-558 reads as rewritten:

33 **"§ 115C-558. High school competency testing.**

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

1 principal office of such school, at all reasonable times, for annual inspection by a duly
2 authorized representative of the State of North Carolina."

3 **SECTION 31.(a)** G.S. 120-85 reads as rewritten:

4 **"§ 120-85. Definitions.**

5 As used in this Article:

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

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

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

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

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

32 **SECTION 31.(b)** G.S. 120-87 reads as rewritten:

33 **"§ 120-87. Disclosure of confidential information.**

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

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

43 **SECTION 31.(c)** G.S. 120-96 reads as rewritten:

44 **"§ 120-96. Contents of statement.**

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

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

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

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

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

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

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

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

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

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

44 **SECTION 31.(d)** G.S. 120-99 reads as rewritten:

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

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

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

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

23 **SECTION 31.(e)** G.S. 120-100 reads as rewritten:

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

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

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

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

43 **SECTION 31.(f)** Subsections (a), (b) and (c) of this section are effective
44 January 1, 2006, and apply to candidates running for office on or after that date, to

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

4 **SECTION 32.** G.S. 122C-22(a) reads as rewritten:

5 "**§ 122C-22. Exclusions from licensure; deemed status.**

6 (a) The following are excluded from the provisions of this Article and are not
7 required to obtain licensure under this Article:

- 8 (1) Physicians and psychologists engaged in private office practice;
- 9 (2) General hospitals licensed under Article 5 of Chapter 131E of the
10 General Statutes, that operate special units for the mentally ill,
11 developmentally disabled, or substance abusers;
- 12 (3) State and federally operated facilities;
- 13 (4) Adult care homes licensed under Chapter 131D of the General
14 Statutes;
- 15 (5) Developmental child care centers licensed under Article 7 of Chapter
16 110 of the General Statutes;
- 17 (6) Persons subject to licensure under rules of the Social Services
18 Commission;
- 19 (7) Persons subject to rules and regulations of the Division of Vocational
20 Rehabilitation Services;
- 21 (8) Facilities that provide occasional respite care for not more than two
22 individuals at a time; provided that the primary purpose of the facility
23 is other than as defined in G.S. 122C-3(14);
- 24 (9) Twenty-four-hour nonprofit facilities established for the purposes of
25 shelter care and recovery from alcohol or other drug addiction through
26 a 12-step, self-help, peer role modeling, and self-governance approach;
27 ~~and~~
- 28 (10) Inpatient chemical dependency or substance abuse facilities that
29 provide services exclusively to inmates of the Department of
30 Correction, as described in ~~G.S. 148-19.1~~G.S. 148-19.1; and
- 31 (11) A charitable, nonprofit, faith-based, adult residential treatment facility
32 that does not receive any federal or State funding and is part of an
33 international organization serving at least 50 countries that helps
34 persons ages 18 through 40 overcome life-controlling problems and is
35 a religious organization exempt from federal income tax under section
36 501(a) of the Internal Revenue Code."

37 **SECTION 33.** G.S. 130A-475(b), as enacted by S.L. 2004-80, reads as
38 rewritten:

39 "(b) The authority under subsection (a) of this section shall be exercised only
40 when and so long as a public health threat may exist, all other reasonable means for
41 correcting the problem have been exhausted, and no less restrictive alternative exists.
42 Before applying the authority under subdivision (4) or (5) of subsection (a) of this
43 section to livestock or poultry for the purpose of preventing the direct or indirect
44 conveyance of a biological, chemical or nuclear agent to persons, the State Health

1 Director shall consult with the State Veterinarian in the Department of Agriculture and
2 Consumer Services.

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

20 If the State Health Director determines that a 30-calendar-day limitation on freedom
21 of movement or access is not adequate to protect the public health, the State Health
22 Director must institute in superior court in the county in which the limitation is
23 imposed, an action to obtain an order extending the period limiting the freedom of
24 movement or access. If the person substantially affected by the limitation has already
25 instituted an action in superior court in Wake County, the State Health Director must
26 institute the action in superior court in Wake County or as a counterclaim in the pending
27 case. The court shall continue the limitation for a period not to exceed 30 days, subject
28 to conditions it deems reasonable and necessary, if it determines by the preponderance
29 of the evidence, that additional limitation is reasonably necessary to prevent or limit the
30 conveyance of biological, chemical, or nuclear agents to others. The court order shall
31 specify the period of time the limitation is to be continued and shall provide for
32 automatic termination of the order upon written determination by the State Health
33 Director or local health director that the quarantine or isolation limitation on freedom of
34 movement or access is no longer necessary to protect the public health. In addition,
35 where the petitioner can prove by a preponderance of the evidence that quarantine or
36 isolation the limitation on freedom of movement or access was not or is no longer
37 needed for protection of the public health, the person quarantined or isolated so limited
38 may move the trial court to reconsider its order extending quarantine or isolation the
39 limitation on freedom of movement or access before the time for the order otherwise
40 expires and may seek immediate or expedited termination of the order. Before the
41 expiration of an order issued under this section, the State Health Director may move to
42 continue the order for additional periods not to exceed 30 days each."

43 **SECTION 34.(a)** G.S. 135-1(25) reads as rewritten:

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

25 **SECTION 34.(b)** G.S. 135-40.2(a2) reads as rewritten:

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

32 **SECTION 35.** G.S. 143-34.1(d) reads as rewritten:

33 "(d) Notwithstanding any other provisions of law relating to the salaries of
34 officers and employees of departments, institutions, and agencies of State government,
35 the Director of the Budget is authorized to provide a plan of flexible compensation to
36 eligible officers and employees of State departments, institutions, and agencies not
37 covered by the provisions of G.S. 116-17.2 for benefits available under Section 125 and
38 related sections of the Internal Revenue Code of 1986 as amended. This plan shall not
39 ~~include those~~ replace, substitute for, or duplicate any benefits provided to employees
40 and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3,
41 4, and 6 of Chapter 135 of the General Statutes ~~nor any vacation leave, sick leave, or~~
42 ~~any other leave that may be carried forward from year to year by employees as a form~~
43 of deferred compensation. Statutes. The plan may, however, include offerings for
44 products and benefits that are supplemental or additional to these statutory benefits. In

1 providing a plan of flexible compensation, the Director of the Budget may authorize
2 State departments, institutions, and agencies to enter into agreements with their
3 employees for reductions in the salaries of employees electing to participate in the plan
4 of flexible compensation provided by this section. With the approval of the Director of
5 the Budget, savings in the employer's share of contributions under the Federal Insurance
6 Contributions Act on account of the reduction in salary may be used to pay some or all
7 of the administrative expenses of the program. Should the Director of the Budget decide
8 to contract with a third party to administer the terms and conditions of a plan of flexible
9 compensation as provided by this section, it may select such a contractor only upon a
10 thorough and completely advertised competitive procurement process."

11 **SECTION 36.(a)** Part 3 of Article 3A of Chapter 143 of the General Statutes
12 is repealed.

13 **SECTION 36.(b)** G.S. 143-129.8(b) reads as rewritten:

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

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

22 **SECTION 37.(a)** Article 9 of Chapter 143 of the General Statutes is
23 amended by adding the following new section to read:

24 "**§ 143-143.5. Access to toilets in shopping malls.**

25 Notwithstanding any other law or rule, a horizontal travel distance of 300 feet for
26 access to public use toilets in covered mall buildings shall be allowed."

27 **SECTION 37.(b)** This section is effective when it becomes law and applies
28 to covered mall buildings for which building permits are issued on or before December
29 1, 2005. This section expires December 1, 2005.

30 **SECTION 38.** G.S. 143-64 reads as rewritten:

31 "**§ 143-64. Beverages contracts.**

32 Notwithstanding any other provision of law, local school administrative units,
33 community colleges, and constituent institutions of The University of North Carolina
34 shall competitively bid contracts that involve the sale of juice or bottled water.
35 Contracts for the sale of juice and contracts for the sale of bottled water shall each be
36 bid separately from each other and separately from any other contract, including
37 contracts for other beverages or vending machine services. The local school
38 administrative units, community colleges, and constituent institutions may set quality
39 standards for these beverages, and these standards may be used to accept or reject a
40 bid."

41 **SECTION 39.(a)** G.S. 153A-442 reads as rewritten:

42 "**§ 153A-442. Animal shelters.**

43 A county may establish, equip, operate, and maintain an animal shelter or may
44 contribute to the support of an animal shelter, and for these purposes may appropriate

1 funds not otherwise limited as to use by law. The animal shelters shall meet the same
2 standards as animal shelters regulated by the Department of Agriculture pursuant to its
3 authority under Chapter 19A of the General Statutes."

4 **SECTION 39.(b)** G.S. 160A-493 reads as rewritten:

5 **"§ 160A-493. Animal shelters.**

6 A city may establish, equip, operate, and maintain an animal shelter or may
7 contribute to the support of an animal shelter, and for these purposes may appropriate
8 funds not otherwise limited as to use by law. The animal shelters shall meet the same
9 standards as animal shelters regulated by the Department of Agriculture pursuant to its
10 authority under Chapter 19A of the General Statutes."

11 **SECTION 40.** G.S. 157-9 is amended by adding the following new
12 subsection to read:

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

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

17 **"§ 160A-361. Planning agency.boards.**

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

- 20 (1) Make studies of the area within its jurisdiction and surrounding areas;
- 21 (2) Determine objectives to be sought in the development of the study
22 area;
- 23 (3) Prepare and adopt plans for achieving these objectives;
- 24 (4) Develop and recommend policies, ordinances, administrative
25 procedures, and other means for carrying out plans in a coordinated
26 and efficient manner;
- 27 (5) Advise the council concerning the use and amendment of means for
28 carrying out plans;
- 29 (6) Exercise any functions in the administration and enforcement of
30 various means for carrying out plans that the council may direct;
- 31 (7) Perform any other related duties that the council may direct.

32 (b) ~~An agency~~ A board or commission created or designated pursuant to this
33 section may include, but shall not be limited to, one or more of the following:

- 34 (1) A planning board or commission of any size (with not fewer than three
35 members) or composition deemed appropriate, organized in any
36 manner deemed appropriate;
- 37 (2) A joint planning board created by two or more local governments
38 pursuant to Article 20, Part 1, of this Chapter."

39 **SECTION 41.(b)** G.S. 160A-363 reads as rewritten:

40 **"§ 160A-363. Supplemental powers.**

41 A city or its designated planning ~~agency~~ board may accept, receive, and disburse in
42 furtherance of its functions any funds, grants, and services made available by the federal
43 government and its agencies, the State government and its agencies, any local
44 government and its agencies, and any private and civic sources. Any city, or its

1 designated ~~planning agency-board~~ with the concurrence of the council, may enter into
2 and carry out contracts with the State and federal governments or any agencies thereof
3 under which financial or other planning assistance is made available to the city and may
4 agree to and comply with any reasonable conditions that are imposed upon such
5 assistance.

6 Any city, or its designated ~~planning agency-board~~ with the concurrence of the
7 council, may enter into and carry out contracts with any other city, county, or regional
8 council or planning agency under which it agrees to furnish technical planning
9 assistance to the other local government or planning agency. Any city, or its designated
10 ~~planning agency-board~~ with the concurrence of its council, may enter into and carry out
11 contracts with any other city, county, or regional council or planning agency under
12 which it agrees to pay the other local government or ~~planning agency-board~~ for
13 technical planning assistance.

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

18 **SECTION 41.(c)** G.S. 153A-321 reads as rewritten:

19 "**§ 153A-321. Planning agency-boards.**

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

- 22 (1) Make studies of the county and surrounding areas;
- 23 (2) Determine objectives to be sought in the development of the study
24 area;
- 25 (3) Prepare and adopt plans for achieving these objectives;
- 26 (4) Develop and recommend policies, ordinances, administrative
27 procedures, and other means for carrying out plans in a coordinated
28 and efficient manner;
- 29 (5) Advise the board of commissioners concerning the use and amendment
30 of means for carrying out plans;
- 31 (6) Exercise any functions in the administration and enforcement of
32 various means for carrying out plans that the board of commissioners
33 may direct;
- 34 (7) Perform any other related duties that the board of commissioners may
35 direct.

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

- 38 (1) A planning board or commission of any size (with not fewer than three
39 members) or composition considered appropriate, organized in any
40 manner considered appropriate;
- 41 (2) A joint planning board created by two or more local governments
42 according to the procedures and provisions of Chapter 160A, Article
43 20, Part 1."

44 **SECTION 41.(d)** G.S. 153A-322 reads as rewritten:

1 **"§ 153A-322. Supplemental powers.**

2 A county or its designated planning ~~agency board~~ may accept, receive, and disburse
3 in furtherance of its functions funds, grants, and services made available by the federal
4 government or its agencies, the State government or its agencies, any local government
5 or its agencies, and private or civic sources. A county, or its designated planning ~~agency~~
6 ~~board~~ with the concurrence of the board of commissioners, may enter into and carry out
7 contracts with the State or federal governments or any agencies of either under which
8 financial or other planning assistance is made available to the county and may agree to
9 and comply with any reasonable conditions that are imposed upon the assistance.

10 A county, or its designated planning ~~agency board~~ with the concurrence of the board
11 of commissioners, may enter into and carry out contracts with any other county, city,
12 regional council, or planning agency under which it agrees to furnish technical planning
13 assistance to the other local government or planning agency. A county, or its designated
14 planning ~~agency board~~ with the concurrence of the board of commissioners, may enter
15 into and carry out contracts with any other county, city, regional council, or planning
16 ~~agency board~~ under which it agrees to pay the other local government or planning
17 ~~agency board~~ for technical planning assistance.

18 A county may make any appropriations that may be necessary to carry out an
19 activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A,
20 Article 19 or to support, and compensate members of, any planning agency that it may
21 create or designate pursuant to this Article."

22 **SECTION 41.(e)** G.S. 160A-392 reads as rewritten:

23 **"§ 160A-392. Part applicable to buildings constructed by State and its**
24 **subdivisions; exception.**

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

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

32 **SECTION 41.(f)** This section becomes effective October 1, 2004.

33 **SECTION 42.** Section 11 of Chapter 149 of the 1931 Session Laws, as
34 amended by Chapter 255 of the 1947 Session Laws and Chapter 745 of the 1953
35 Session Laws and Chapter 20 of the 1985 Session Laws is rewritten to read:

36 "The term of the School Board shall be for four years. In case of any vacancy on the
37 Board, the vacancy shall be filled by an election by the governing body of the City of
38 Asheville. As soon as practicable after the first Monday of April, 1931, and each
39 biennial year thereafter, the Board shall meet and elect a chairman, who shall preside
40 over the meetings of the Board. A majority of the members of the Board shall constitute
41 a quorum. The chairman or any two members may call a meeting."

42 **SECTION 43.(a)** Section 5 of Chapter 208 of the 1993 Session Laws, as
43 amended by Section 1 of S.L. 2004-66, is amended by adding the phrase "Pitt County"
44 before the word "Brunswick".

1 **SECTION 43.(b)** Section 6 of Chapter 208 of the 1993 Session Laws, as
2 amended by Section 2 of S.L. 2004-66, is amended by adding the phrase "Pitt County,"
3 before the word "Brunswick".

4 **SECTION 43.(c)** Section 9 of Chapter 208 of the 1993 Session Laws, as
5 amended by Section 3 of S.L. 2004-66, is amended by adding the word "Pitt County
6 and" before the word "Brunswick".

7 **SECTION 44.(a)** Section 1 of Chapter 196 of the 1995 Session Laws reads
8 as rewritten:

9 "Section 1. The provisions of Chapter 20 of the General Statutes relating to the use
10 of the highways of the State and the operation of motor vehicles are applicable to the
11 drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots,
12 by whatever name known, on the properties owned by or under the control of The
13 Colington Harbour Association, Inc., or the Martin's Point Homeowners Association,
14 Inc., and shown on the several plats recorded in the office of the Register of Deeds of
15 Dare County. For purposes of this act, drives, driveways, roads, roadways, streets,
16 courts, extensions, alleys, and parking lots, by whatever name known shall have the
17 same meaning as highways and public vehicular areas pursuant to G.S. 20-4.01. A
18 violation of any of those laws is punishable as prescribed by those laws."

19 **SECTION 44.(b)** Section 2 of Chapter 196 of the 1995 Session Laws reads
20 as rewritten:

21 "Sec. 2. This act shall not be construed as in any way interfering with the ownership
22 and control of the drives, driveways, roads, roadways, streets, courts, extensions, alleys,
23 and parking lots, by whatever name known, of The Colington Harbour Association,
24 Inc., or the Martin's Point Homeowners Association, Inc., nor does this require the
25 removal of the private guard gate belonging to ~~the~~ either Association."

26 **SECTION 45.** The introductory language of subsection (b) of Section 2 of
27 S.L. 1997-41, as amended by S.L. 1998-19, S.L. 2001-318, S.L. 2003-55, and S.L.
28 2003-260 reads as rewritten:

29 "(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of
30 20 members, appointed as follows:"

31 **SECTION 46.(a)** The lead-in language of Section 1 of S.L. 2003-392 reads
32 as rewritten:

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

35 **SECTION 46.(b)** This section becomes effective August 7, 2003.

36 **SECTION 47.(a)** If House Bill 281, Regular Session 2003, becomes law,
37 Section 20 of House Bill 281, 2003 Regular Session, is repealed.

38 **SECTION 47.(b)** G.S. 14-298 reads as rewritten:

39 "**§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited~~**
40 **~~video game machines to be destroyed by police officers.~~Seizure of illegal**
41 **gaming items.**

42 ~~All sheriffs and officers of police are hereby authorized and directed, on information~~
43 ~~made to them on oath~~Upon a determination that probable cause exists to believe that
44 any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal

1 punchboard or illegal slot machine, or any video game machine prohibited to be used by
2 G.S. 14-306 or G.S. 14-306.1, is in the illegal possession or use of any person within the
3 limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to
4 seize the items in accordance with applicable State law to destroy the same by every
5 means in their power; and they shall call to their aid all the good citizens of the county,
6 if necessary, to effect its destruction. Any law enforcement agency in possession of that
7 item shall retain the item pending a disposition order from a district or superior court
8 judge. Upon application by the law enforcement agency, district attorney, or owner, and
9 after notice and opportunity to be heard by all parties, if the court determines that the
10 item is unlawful to possess, it shall enter an order releasing the item to the law
11 enforcement agency for destruction or for training purposes. If the court determines that
12 the item is not unlawful to possess and will not be used in violation of the law, the item
13 shall be ordered released to its owner upon satisfactory proof of ownership. The
14 foregoing procedures for release shall not apply, however, with respect to an item seized
15 for use as evidence in any criminal action or proceeding until after entry of final
16 judgment."

17 **SECTION 47.(c)** This section becomes effective October 1, 2004.

18 **SECTION 48.** If House Bill 281, 2003 Regular Session, becomes law, then
19 G.S. 148-32.1(a), as amended by Section 54 of House Bill 281, 2003 Regular Session,
20 reads as rewritten:

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

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

39 In order to obtain reimbursement for any of the expenses authorized by this section, a
40 local confinement facility shall submit an invoice to the Department within ~~one year~~
41 90 days of the date of commitment by the sentencing court."

42 **SECTION 49.** If House Bill 669, 2003 Regular Session, becomes law, then
43 G.S. 131E-76(6) and (7), as amended by Section 1.1 of House Bill 669, 2003 Regular
44 Session, reads as rewritten:

1 **"§ 131E-76. Definitions.**

2 As used in this article, unless otherwise specified:

3 ...

4 (6) "Critical access hospital" means a hospital which has been designated
5 as a critical access hospital by the North Carolina Department of
6 Health and Human Services, Office of ~~Rural Health and Resource~~
7 Research, Demonstrations and Rural Health Development. To be
8 designated as a critical access hospital under this subdivision, the
9 hospital must meet the requirements of federal law for certification as
10 a critical access hospital.

11 (7) "Rural hospital network" means an alliance of members that shall
12 include at least one critical access hospital and one other hospital. To
13 qualify as a rural hospital network, the critical access hospital must
14 submit a comprehensive, written memorandum of understanding to the
15 Department of Health and Human ~~Services—Services, Office of~~
16 Research, Demonstrations and Rural Health Development, for the
17 Department's approval. The memorandum of understanding must
18 include provisions for patient referral and transfer, a plan for
19 network-wide emergency services, and a plan for sharing patient
20 information and services between hospital members including medical
21 staff credentialing, risk management, quality assurance, and peer
22 review."

23 **SECTION 50.** If House Bill 951, 2003 Regular Session, becomes law, then
24 G.S. 50C-1(5) as enacted by Section 1 of House Bill 951, 2003 Regular Session is
25 repealed.

26 **SECTION 51.** If House Bill 1264, 2003 Regular Session, becomes law, then
27 the first paragraph of Section 6.1 of House Bill 1264, 2003 Regular Session, reads as
28 rewritten:

29 **"SECTION 6.1.** To ensure that the State's citizens are academically prepared and
30 equipped for current job opportunities and jobs of the future in North Carolina's
31 growing knowledge economy, the Board of Governors of The University of North
32 ~~Carolina, in collaboration with the State Board of Community Colleges, Carolina and the~~
33 State Board of Community Colleges shall, within 60 days after this act becomes law,
34 contract with a private consulting firm that has experience in higher education to
35 conduct a comprehensive study of the mission and educational program needs for the
36 University System and the Community College System. The Board of Governors and
37 the State Board may enter into contracts with consultants for the purposes authorized in
38 this section without complying with the provisions of Article 3C of Chapter 143 of the
39 General Statutes. The study shall include all of the following:"

40 **SECTION 52.** If Section 17.6A of House Bill 1414, 2003 Regular Session,
41 becomes law, then Section 22 of House Bill 281, 2003 Regular Session, is repealed.

42 **SECTION 53.** If House Bill 1414, 2003 Regular Session, becomes law, then
43 Section 7.22(a) of House Bill 1414 reads as rewritten:

44 **"HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM**

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

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

15 **SECTION 54.** If House Bill 1414, 2003 Regular Session, becomes law, then
16 Part VII, Public Schools, of House Bill 1414, 2003 Regular Session, is amended by
17 adding a new section to read:

18 **"IMPLEMENT DPI REORGANIZATION**

19 **SECTION 7.34.** Notwithstanding G.S. 143-23, the State Board of Education may
20 reorganize the Department of Public Instruction and transfer funds within the budget of
21 the Department to the extent necessary to implement the reorganizations outlined in the
22 reorganization study completed by the Office of State Budget and Management."

23 **SECTION 55.** If Section 8.17 of House Bill 1414, 2003 Regular Session,
24 becomes law, then a new subsection is added to read:

25 **"SECTION 8.17.(b1)** No request for proposals need be issued for any contract
26 under subdivision (a)(2) of this section."

27 **SECTION 56.** If House Bill 1414, 2003 Regular Session, becomes law,
28 G.S. 20-147.1, as enacted by Section 30.6 of House Bill 1414, 2003 Regular Session,
29 reads as rewritten:

30 **"§ 20-147.1. Passenger vehicle towing other vehicles to keep right.**

31 Whenever a noncommercial passenger vehicle as defined in G.S. 20-4.01(27)g. is
32 towing another vehicle as defined in G.S. 20-4.01(49), the driver of the towing vehicle
33 shall at all times cause that vehicle to travel on the right half of the highway, ~~or if the~~
34 ~~highway is divided into two or more lanes in the right-most lane of travel, unless that~~
35 ~~lane is obstructed or impassable, and upon any highway having four or more lanes for~~
36 moving traffic and providing for two-way movement of traffic, the vehicle shall not be
37 driven in the left-most lane of the right half of the highway except when overtaking and
38 passing another vehicle proceeding in the same direction, when preparing for a left turn,
39 or the right lanes are obstructed or impassable. These towing vehicles shall also comply
40 with all signage for vehicles of three or more axles erected pursuant to
41 G.S. 20-146(d)(3)."

42 **SECTION 57.(a)** If House Bill 1414, 2003 Regular Session, becomes law,
43 then G.S. 135-3(8)c. reads as rewritten:

1 "c. Should a beneficiary who retired on an early or service
2 retirement allowance under this Chapter be reemployed, or
3 otherwise engaged to perform services, by an employer
4 participating in the Retirement System on a part-time,
5 temporary, interim, or on a fee-for-service basis, whether
6 contractual or otherwise, and if such beneficiary earns an
7 amount during the 12-month period immediately following the
8 effective date of retirement or in any calendar year which
9 exceeds fifty percent (50%) of the reported compensation,
10 excluding terminal payments, during the 12 months of service
11 preceding the effective date of retirement, or twenty thousand
12 dollars (\$20,000), whichever is greater, as hereinafter indexed,
13 then the retirement allowance shall be suspended as of the first
14 day of the month following the month in which the
15 reemployment earnings exceed the amount above, for the
16 balance of the calendar year. The retirement allowance of the
17 beneficiary shall be reinstated as of January 1 of each year
18 following suspension. The amount that may be earned before
19 suspension shall be increased on January 1 of each year by the
20 ratio of the Consumer Price Index to the Index one year earlier,
21 calculated to the nearest tenth of a percent (1/10 of 1%).

22 The computation of postretirement earnings of a beneficiary
23 under this sub-subdivision, G.S. 135-3(8)c., who has been
24 retired at least six months and has not been employed in any
25 capacity, except as a substitute teacher or a part-time tutor, with
26 a public school for at least six months immediately preceding
27 the effective date of reemployment, shall not include earnings
28 while the beneficiary is employed to teach on a substitute,
29 interim, or permanent basis in a public ~~school~~ school or a
30 charter school. The Department of Public Instruction shall
31 certify to the Retirement System that a beneficiary is employed
32 to teach by a local school administrative unit or a charter school
33 under the provisions of this sub-subdivision and as a retired
34 teacher as the term is defined under the provisions of
35 G.S. 115C-325(a)(5a).

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

39 **SECTION 57.(b)** If House Bill 1414, 2003 Regular Session, becomes law,
40 then G.S. 115C-325(a)(5a) reads as rewritten:

41 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
42 Employees' Retirement System of North Carolina who has been retired
43 at least six months, has not been employed in any capacity, other than
44 as a substitute teacher or a part-time tutor, with a local board of

1 education or a charter school for at least six months, immediately
2 preceding the effective date of reemployment, is determined by a local
3 board of education or a charter school to have had satisfactory
4 performance during the last year of employment by a local board of
5 education, education or a charter school, and who is employed to teach
6 as provided in G.S. 135-3(8) c. A retired teacher at a school other than
7 a charter school shall be treated the same as a probationary teacher
8 except that (i) a retired teacher is not eligible for career status and (ii)
9 the performance of a retired teacher who had attained career status
10 prior to retirement shall be evaluated in accordance with a local board
11 of education's policies and procedures applicable to career teachers."

12 **SECTION 57.(c)** This section expires June 30, 2005.

13 **SECTION 58.** If Senate Bill 916, 2003 Regular Session, becomes law, then
14 G.S. 95-271 as enacted by Section 1 of Senate Bill 916, 2003 Regular Session, reads as
15 rewritten:

16 "**§ 95-271. Scope of Article; other remedies available.**

17 This Article does not expand, diminish, alter, or modify ~~the~~ any duty of any
18 employer to provide a safe workplace for employees and other persons. This Article
19 does not limit the ability of an employer, employee, or victim to pursue any other civil
20 or criminal remedy provided by law. This Article does not apply in circumstances where
21 an employee or representative of employees is engaged in union organizing, union
22 activity, a labor dispute, or any activity or action protected by the National Labor
23 Relations Act, 29 U.S.C. § 151, et seq. Nothing in this Article is intended to change the
24 National Labor Relations Act's preemptive regulation of legally protected activities, nor
25 to change the right of the State and its courts to regulate activities not protected by the
26 National Labor Relations Act."

27 **SECTION 59.** If Senate Bill 1083, 2003 Regular Session, becomes law, then
28 Section 11 of Senate Bill 1083, 2003 Regular Session reads as rewritten:

29 "**SECTION 11.** ~~This act becomes effective January 1, 2005. Sections 1 through 9 of~~
30 this act become effective January 1, 2006. Section 10 of this act becomes effective
31 October 1, 2004. Section 11 of this act becomes effective when this act becomes law."

32 **SECTION 60.(a).** If Senate Bill 1145, 2003 Regular Session, becomes law
33 then G.S. 153A-155(f1), as enacted in Section 42.(a) of Senate Bill 1145, 2003 Regular
34 Session, reads as rewritten:

35 "(f1) Use. – The proceeds of a room occupancy tax shall not be used ~~directly or~~
36 ~~indirectly~~ for development or construction of a hotel or another transient lodging
37 facility."

38 **SECTION 60.(b).** If Senate Bill 1145, 2003 Regular Session, becomes law
39 then G.S. 160A-215(f1), as enacted in Section 42.(b) of Senate Bill 1145, 2003 Regular
40 Session, reads as rewritten:

41 "(f1) Use. – The proceeds of a room occupancy tax shall not be used ~~directly or~~
42 ~~indirectly~~ for development or construction of a hotel or another transient lodging
43 facility."

1 **SECTION 61.** The Department of Transportation shall install highway
2 directional guide signs at limited-access highway terminals for the nonresidential
3 campuses of colleges or universities located in North Carolina, if the nonresidential
4 campus is located within one mile from the limited-access highway terminal and if the
5 college or university is licensed by the Board of Governors of The University of North
6 Carolina, offers both undergraduate and graduate degree programs, and has a minimum
7 of 350 students enrolled at the nonresidential campus. The college or university
8 requesting the sign installment shall pay for all charges related to the construction of the
9 sign.

10 **SECTION 62.** Except as otherwise provided, this act is effective when it
11 becomes law.